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## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Thursday 13 August 1992

### Standing committee on resources development

Labour Relations and  
Employment Statute Law  
Amendment Act, 1992

## Assemblée législative de l'Ontario

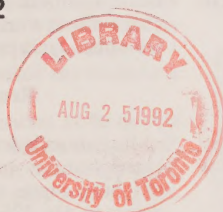
Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Jeudi 13 août 1992

### Comité permanent du développement des ressources

Loi de 1992 modifiant des lois  
en ce qui a trait aux relations  
de travail et à l'emploi



Chair: Peter Kormos  
Clerk pro tem: Todd Decker

Président : Peter Kormos  
Greffier par intérim : Todd Decker

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## **Table of Contents**

Table of Contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

## **Index inquiries**

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## **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

## **Renseignements sur l'index**

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday 13 August 1992

The committee met at 1000 in room 151.

### LABOUR RELATIONS AND EMPLOYMENT STATUTE LAW AMENDMENT ACT, 1992 LOI DE 1992 MODIFIANT DES LOIS EN CE QUI A TRAIT AUX RELATIONS DE TRAVAIL ET À L'EMPLOI

Consideration of Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment / Loi modifiant certaines lois en ce qui a trait à la négociation collective et à l'emploi.

### CANADIAN PAPERWORKERS UNION, LOCAL 101

**The Chair (Mr Peter Kormos):** Good morning. It's 10 o'clock. We're ready to resume. We're scheduled to resume at 10 and we will. The first participant is the Canadian Paperworkers Union, Local 101. Gentlemen, seat yourselves and tell us your names, your title with respect to the union and tell us what you will. We've got a half-hour. Your written material has been distributed and will be an exhibit in the hearings. Please try to save at least the last half of the half-hour for questions and exchange. Go ahead.

**Mr Gary Buccella:** On my left is Rick Catterall. He's the president of Local 101 of the Canadian Paperworkers Union. On my right is Don McSween, who is the vice-president of that same local. My name is Gary Buccella. I act as their consultant, and they've asked me to make a presentation on their behalf.

We really only have one major concern as far as this presentation I'm making on behalf of this particular local. The section of the act that we would be addressing is the combining of bargaining units, if you refer to our written submission to you as a way of background.

On behalf of Rick Catterall, president of Local 101, and his membership affiliated to the Canadian Paperworkers Union, I would like to thank the Chairman, Mr Kormos, and the committee members for the opportunity to address them on the contents of Bill 40.

By way of background, Local 101 represents the paper-makers at the Quebec and Ontario Paper Co, located in Thorold, Ontario. At the present time this operation is a producer of newsprint and employs approximately 500 unionized employees. At this location there are approximately eight different local unions. Three are chartered to the Canadian Paperworkers Union.

First, let us say that in principle we welcome many of the changes in the act. Most were long overdue. However, there is one particular area of concern. We would like to share our thoughts with you on this important point. Specifically, we would like to address section 8 of Bill 40, the repealing of sections 7 and 8 and the substitution found on page 5, which reads:

"Combining bargaining units

"(1) On application by the employer or trade union, the board may combine two or more bargaining units consisting of employees of an employer into a single bargaining unit if the employees in each of the bargaining units are represented by the same trade union."

It is quite clear that subsection 7(1) grants the board, upon application by the employer or the trade union, the authority to combine present units into one unified group, "trade union" meaning the parent body to whom the bargaining rights are held and to whom the local is chartered. Either party can simply apply to the board and, once successful, can literally impose changes to conditions that form a binding contract on the employees without the consent of one party that will be affected the most by such actions. This, in our opinion, is a complete denial of natural justice.

On the surface, the logic behind this part of the act may appear to be sound and wise. However, it is our opinion that the government has not put much thought and effort into the array of scenarios that may occur and the direct effect it will have on the security of the very people the labour act was created to protect.

We'd like to bring to your attention some of these possible scenarios.

We have a company not unlike the Quebec and Ontario Paper Co that has three local unions belonging to the same parent body. One local has about 300 members, a second approximately 100 and a third about 25. However, historically the bargaining strength of the three locals flowed from the middle-sized local. All three units, within their own right, have different priorities and reasons for their strengths and weaknesses.

The company, in this case scenario, is attempting to introduce sweeping changes that will affect the security and working conditions of those working in the middle-sized unit only. This unit on its own has been able to resist such changes. The company applies to the board to combine the three units. The OLRB grants the relief sought by the company and combines the three units into one. The company then proceeds to put forward its changes.

Since these changes have no real effect on either of the other two units, they are accepted and the result is simple and clear: The one unit that on its own had been successful in protecting the security of its members is now beaten into submission by sheer numbers, and the company reaps the rewards by merely using this section to overpower the smaller unit.

The smaller unit, having lost its identity and its right to defend its members, now suffers the consequences. The threat of change and job loss is no longer a challenge to be met in the future but a present-day reality.

Another example is where the parent body is at odds with one of its locals. The parent body can use this section to rectify the problem and suppress any legitimate opposition from any disgruntled bargaining unit. The smaller unit would be swallowed up by the larger one. The conclusion would simply mean no more problems for the parent body and it would also mean no more freedom for the local. That, in our opinion, flies in the face of a very basic freedom, the freedom to choose not only the right to maintain the conditions they had when they joined the union, but the right to decide on whether or not they want that particular union at all.

Since this new legislation does not have a grandfathering clause in it, it is quite conceivable that a parent body may, by using this section of the act, change the geographical structure of a very old, established unit for no other reason than to maintain control of a group that no longer wishes to continue that relationship. We do not believe that this piece of legislation was created to deny or harm any existing right that currently exists in the act or to weaken one's present defences, but given the above two examples it is clear that this could very well become the norm instead of the exception.

Another factor that would appear to have been overlooked by the government when it drafted this particular section is what happens to specific contractual sections of the two or more collective agreements that would be merged as a result of the granting of a combination application during the life of an existing collective agreement.

Each bargaining unit usually has its own collective agreement and each collective agreement has its own defined terms and conditions, such as seniority rights, job posting clauses, layoff clauses etc. Nowhere does this section in its amended form deal with the problems of conflicting contractual language. It may be okay to say that this is what we have arbitrators for, but whose language takes priority over the other's, since both would have equal status?

If an application was granted, say, for example, in the middle of a three-year contract, the parties could not address these areas of contention until the current contract expired some 18 months down the road. In the interim, it is quite conceivable that the company could benefit from such confusion at the expense of one or both of the now joined units. How can one defend this as being fair?

At the Q and O, as it is most frequently referred to, the current contracts have many built-in barriers. In other words, job postings may have certain restrictions presently on them due to separate jurisdictions. Members in one unit may not, under the present contract, be able to bump into another unit's jurisdiction when layoffs occur, even though the affected individual has more overall mill seniority.

This particular operation has been unionized almost since the beginning of time; I think 1912 is the year. Since that time, the bargaining units have put into place many safeguards for working in the mill with a number of bargaining units that exist there. Employees, over the years, have made decisions about their future working lives based on these current existing practices and barriers. With this one piece of legislation, all that can change. This may

be considered to be progressive, but progress should never be at someone's expense, especially when that someone has no control over the end results.

We acknowledge that under section 2 it probably makes sense to expand an existing unit when a certification is put before the board, but that's a new certification. There is no collective agreement in place in the new unit, and the parties have first-agreement legislation to deal with whatever problems may arise as a result of this new inclusion.

With respect to the old or already established bargaining units, did anyone, during the preparation of this piece of legislation, ever think to ask the question, why haven't bargaining units or locals belonging to the same parent organization merged before this? The opportunity was there, and if the companies were and are sincere in their concern about the problems of multiple unions, then surely there would have been no problems getting an agreement from the company once the locals had been merged together.

In the long run, what is being proposed may very well improve the bargaining system for all concerned. But in today's world, with all the changes going on on both sides since this legislation—something has happened here. What has happened is that a piece of paper got stuck in the Xerox machine. What it basically says is that on both sides of the table there are many changes going on. To introduce this piece of legislation into an organization or into a system that has existed for over 75 to 80 years at this time without any safeguards we believe would be detrimental to the welfare and also cause greater confusion than currently exists.

Since this legislation will probably become law in the next few months, Local 101 would like to see some amendments that would provide safeguards to units like themselves, so that when this amendment becomes law it will not create the disruptions that will occur in any of these mills or plants if such safeguards are not incorporated into the act.

We respectfully submit to you that the following proposals be considered before this bill gets final reading:

1. That there would be a grandfathering clause for established units that would require a vote of all parties concerned who would be directly affected by an application, and that the board would require a simple majority vote of each of the individual units before such a merger could take place.

2. In the alternative, that a window be provided for existing units. In other words, if an application was granted by the board, it would not become effective until the signing of the next collective agreement following such a ruling. This way, the affected units would know ahead of time, going into negotiations, what the new bargaining unit would look like and they would have an opportunity to amend their collective agreements accordingly.

3. The act should further provide that any bargaining issues pertaining to the board's decision cannot be the cause of a strike or lockout. Failing agreement of the parties to resolve, any and all matters related to the board's decision would be submitted to a third party for final and



binding settlement, as is the case for first-agreement legislation, because in reality, under this new bargaining unit, it is, for all intents and purposes, a new first agreement.

We can see no reason for any opposition to these proposals from the employers, because in the end they would have their problems solved. If it is done in this manner, it also eliminates the confusion, hostility, disruptions and emotional frustrations that would build up among the workers if, during the collective agreement, this merger took place.

I'd just like to say that on behalf of Mr Catterall and his membership I once again thank the committee members and Mr Kormos for the opportunity to express their viewpoint on this extremely important matter. If you have any questions, we'd be pleased to try to answer them.

**The Chair:** I'm sure there will be.

1010

**Mrs Elizabeth Witmer (Waterloo North):** Thank you very much for your presentation. This is the first time I've heard this concern expressed by the unions in the days that I've been here.

I would simply like to say that the concern you've raised concerning the most appropriate bargaining structure for the employees is a concern I have been expressing all along. This is one of the areas where I believe employees do lose local autonomy and could lose control over their destiny when they're forced to become part of a much larger bargaining unit that is located at different geographical locations.

I guess I would say to you that if the amendments you have proposed here were to be accepted by the government, would you feel comfortable, then, with the rest of Bill 40? Do you feel there are any other areas where individual rights and local autonomy are infringed upon where you have concerns?

**Mr Buccella:** First of all I'd like to apologize, because there's one sheet of this presentation that must still be in the Xerox machine back in the office. I'll try to get it to you and correct that.

With respect to your question, unfortunately I'm here to make a presentation on behalf of this particular local union. Since they have been organized since 1912, with respect to the rest of the parts of the act, with the change in the organizing end of it or the first-agreement legislation, none of those things really affect them. So I don't think it's appropriate for me to make comment on those points. I would like to have made a presentation on a number of the issues on my own, but since I'm not here in that capacity, I won't.

The one area, though, that we believe is practical and logical with respect to the anti-strike or scab legislation, as they say, to stop the company from replacing workers—that probably makes sense and it is a deterrent to companies to try to provoke strikes. We're not too sure, though, whether that's an appropriate approach in the present-day situation.

We've read the government's budget papers and the dawning of new-tech change, of cooperation; we hear that every day. It would seem that although we are preaching

this cooperative relationship and this management-union employee involvement, we then go out and set the stage for war with respect to legislation.

We're not too sure that strikes in 1992, or the utilization of strikes or lockouts, are the solution in today's world. A mechanism should be there to settle our differences. Obviously, when two parties are at odds or at loggerheads over an issue, they need some mechanism—no different than the United States and Canada on free trade. They have set up a tribunal.

We think that possibly suggesting legislation for first-agreement legislation only—it may have been better off to have been expanded and given a certain set of guidelines or rules. The parties could have been able to submit their differences to arbitration, because I think over the years we've found out that nobody really wins in that type of scenario, especially today, with the shrinking—I'll speak mainly to the private sector and the manufacturing end of it—of the marketplace. Although you may be able to put pressure on the company, in the same light that type of pressure may, in the end, be your own downfall as the operations may decide to move out and relocate someplace else.

I don't think anyone will argue the point that in order for the unions to survive they have to have companies and employers to survive. This is certainly not the chicken-and-egg scenario. We know who came first and who came second.

That's one area where I just felt, in reading it, that we seem to be professing peace and tranquillity and cooperative relationships and then we seem to go out and put legislation in place that actually dictates the strategies of war.

Probably, if the government would have looked at that particular area, the resistance that's been met in the media and by the corporations may not have been as severe. The campaigning and the lobbying to kill this act in its entirety may not have been there if we had taken a different approach.

**Mrs Witmer:** What approach would you have suggested?

**Mr Buccella:** As I said, I think there's a more amiable way of resolving your differences. Why has the government suggested first-agreement legislation? Obviously, they felt it's a mechanism that helps the parties resolve their differences in the early stages. I'm not too sure it has to be restricted to the early stages. I'm not too sure that is in itself a solution. But there should be a mechanism which you can go to in a peaceful way to resolve your differences rather than the employees suffering on the picket line and the employer suffering a loss.

I think you'll find in most cases the moneys and the emotions and the long-term effects of a work stoppage are never worth the price that's paid, and in the end the issues that really created the fight in the first place were not really issues that were strong enough to do the job that was done on the people and the companies at that time. I think we're into a new era and we should be looking at new ways of resolving our differences, that's all.



**Mrs Witmer:** What type of relationship have your locals had with the employer?

**Mr Buccella:** If you go back to 1912, when they were organized, and take the number of strikes that have taken place, I think there have probably been three or four at most, but they have basically come since 1975. I think Mr Strathern was here a few days ago making a presentation on behalf of the Quebec and Ontario Paper Co. They've come off a strike in 1990, they had another one in 1975, and there might have been a shorter one earlier than that.

All in all, the relationship hasn't been that bad, but when it does come apart, it comes apart and falls heavy, and it takes a long time to recuperate.

**Mrs Witmer:** Thank you very much for your comments. I appreciate your input.

**Mr Gary Carr (Oakville South):** Thank you very much for your presentation. It was very clear and distinct. There was no rhetoric.

**Mr Buccella:** Even short a page.

**Mr Carr:** What has happened to your membership over the last little while? Has it increased or decreased? Where are you at with your membership?

**Mr Buccella:** Maybe I can address the question a little differently. In 1980 this operation had approximately 1,200 employees, for all local unions there. They downsized and mechanized the operation between 1980 and 1982 and lost approximately 300 to 400 people at that time. In 1987 the company made a decision to get out of the chemical business, shutting down the chemical operations, which caused a further 250 to 300 people to be lost, so they've lost about 700 in the last decade, give or take a year.

They are now attempting to implement a program that is not uncommon; it flows from the philosophy of the team concept. This is one of the concerns that we have over this legislation and where there is at least some degree of fragmentation within the operation. There are certain restrictions that the companies can't explore and implement because of the jurisdictional differences.

With this legislation, if they could succeed in the applications, we're probably putting in jeopardy another 50 to 100 people's employment at this particular operation just as a result of their successfully being able to obtain a merger of the three locals belonging to the CPU.

**Mr Paul Klopp (Huron):** Thank you very much for your presentation. We had the owners or the managers, I guess it would be, in yesterday or the day before.

**Mr Buccella:** Tuesday, I believe it was.

**Mr Klopp:** I was interested in the history of this organization. They have a lot of unions at that spot.

One of the issues that you touched on a little bit, but I would like a little more clarification on, is the provisions that have been added to the act with regard to replacement workers. Are you thinking that's a reasonable addition? Could you expand on that, please?

**Mr Buccella:** I think what I was trying to say to you is that if the government is going to pursue that avenue, it's a very responsible part of the act, if they're pursuing that philosophy. I think my comments were more inclined to

the overall philosophical approach to the parties getting together and working in a more cooperative way. I understand that the best defence is an offence or the best way to stop a war is to build a war armament, but I'm not too sure this particular government ever supported that philosophy. I think it always says disarmament is better than armament.

In effect, what we're doing in that section of the legislation, at least from a corporate point of view, is arming the working force with a stronger piece of legislation, yet in the same breath, we submit other documents, through budgets and so on, saying that the labour force in the province and companies have to learn to work together in a more cooperative atmosphere because of what's going on out there in the real world. So although you may be walking down the same street, you may be on the wrong side of the road on that particular one.

If we're going to continue saying that strikes and lockouts are an alternative at the bargaining table, then I believe the legislation is good and it should remain there.

1020

**Ms Sharon Murdock (Sudbury):** Thank you for an interesting view. If strikes and lockouts are not the measures to be used in this day and age—actually, I'm not disagreeing with you, it's just that in the present system we have set up, it has historically been very adversarial, and in many instances unfortunately that has not changed.

I'd be interested in hearing your views as to the type of mechanism that could be used as an alternative. Would that be mandatory negotiation? I don't know what other mechanism you could use. I'm sure, since you've talked about it so well, you must have thought about other avenues to pursue.

**Mr Buccella:** I honestly believe the government has considered that and I don't think you have to go very far to look at it. It does grant first-agreement legislation. In the beginning, there had to be a case proven of bad-faith bargaining, but the decisions that have flowed from that over the last few years have diluted that argument of bad-faith bargaining. There have been decisions now even to the point that first-agreement legislation is granted where there's a loggerhead between the parties. Basically, a loggerhead is determined when the two parties just don't agree on something.

In the new legislation, under Bill 40, you're literally saying, "You have access to first-agreement legislation." I guess my question to the people who put that legislation together is, why did they restrict it to first-agreement legislation if it is a mechanism to help stabilize the workforce and the working environment? Why should it be restricted to just that instead of making it available to other parties?

With free trade between the United States and Canada, especially in the southern Ontario area and the border towns, by granting anti-scab legislation, are we not really just turning the screws more on employers to transport their work south of the border in order to offset strikes?

We had a strike in the corrugated sector of the Canadian Paperworkers Union in 1982 and none of the operations ran. We didn't need the legislation for anti-strike. What the companies did was transport the work and buy

their paper south of the border—they had 63% of the corrugated box plants shut down—within 30 miles, and they ran all the work there for seven months. We had over 70% of Canada's box plants down and could not be successful after eight months.

**Ms Murdock:** It's interesting again that first-agreement arbitration is a form of solution that you see.

**Mr Buccella:** It's a suggested solution. At least it should be an alternative.

**Ms Murdock:** Employer groups have appeared here and are quite concerned about the whole idea of imposing a 30-day arbitration, or after first agreement, having arbitration after 30 days. I'm paraphrasing a number of groups. I just want to make that clear on the record. They think the unions would not meaningfully negotiate knowing that in 30 days from a day of impasse, they would end up having it arbitrated for them. You'd have basically third-party intervention. With that kind of view, how do you respond?

**Mr Buccella:** I think I basically say, "So what?" If they don't negotiate in 30 days, then maybe you'd have to come back and amend the act to say, "Let's eliminate the 30 days," if that's what the parties want to do. They can't speak out of both sides of their mouths. They can't come here and say they won't negotiate for the 30 days in order to get access to this first-agreement legislation or legislated settlements and in the same breath come here and say: "We want all these other things, because we don't like the anti-scab legislation. We should be able to run our factories. We don't like strikes." They can't have it both ways. In effect, if you follow that logic through to its end, what they're really telling you is they don't want unions in their factories if they try to shut all the doors down around them. I don't think that's appropriate either.

What I'm saying is that if their objective or goal is to maintain their operations and have them working and functioning, supposedly being productive and profitable, then they should welcome any sort of resolution to differences between the parties rather than having a fight.

**Mr Steven Offer (Mississauga North):** Thank you for your presentation. You've certainly raised a very specific concern with the legislation, not only raising a concern but also—and I thank you for this—offering a way in which the concern can be addressed.

I want to be very clear in my mind. You're concerned, with respect to the combination of bargaining units provision, that the board can just combine the two units, which may have the result, unintended but still most possible, of subverting the rights and interests of a group of workers in a less populated or a less strong unit. Is that the concern?

**Mr Buccella:** That's one of the concerns, plus the other concern that you would eliminate certain barriers within the particular operation, which would give the company the opportunity to cross-apply themselves, where under the present circumstances they can't do that.

If I just may add one point, what I'm really concerned about when I read the legislation is that it deals with companies applying—in a trade union basically the parent organizations is applying—but the end result, the net result, affects the people in the factory. They have no say in

this when it happens. When you go out and organize a factory, you sign the people up, you have a geographical area, and the people believe that is their nest that they're going to work out of. Then, lo and behold, a year later or six months later, during the first term of that collective agreement, the company or the union applies to absorb it into another area.

What would happen if in a case four years down the pike those people no longer wanted to be represented by that union but they've been absorbed in a thousand-man local union? They could never get out. They would be imprisoned.

**Mr Offer:** And not only that. The other issue that you raise is, what happens when there are competing and conflicting collective agreements in each of the units?

**Mr Buccella:** That's very serious.

**Mr Offer:** The third area is one we have discussed almost from day one, and that's a simple majority vote. You are saying that this could be accomplished if each of the workers in each of the units was able to freely cast a vote, whether they wish or do not wish to be combined. You're saying that can be accomplished. Are you concerned about influence one way or the other being put on a worker?

**Mr Buccella:** Well, no, not in this day and age. I don't believe so. I believe the people have minds of their own. The media, the communications, the logic are all there. They have been unionists probably for a period of time, so that type of influence wouldn't be there as if it were an unorganized place just coming in. I don't really have a problem with that.

I guess the message I was trying to get across to the panel was that they have to allow the workers, the rank-and-file workers in the factories, to be involved in this decision-making process. That's the main thrust of what I was trying to say. What mechanism you apply, I'd leave up to the panel, but they have to be involved. They can't just be the recipients of someone else's actions.

**Mr Offer:** Mr Chair, there are two areas I'd like to deal with. One is not a question, but rather a request through you to the ministry staff. The deputants here have raised a very specific issue as to the change in the combining of units and what it means to collective agreements. I would ask that the ministry staff provide a response to this concern if the concern that we have heard today is one which is not dealt with in the legislation.

**Mr Buccella:** I couldn't find it.

**Mr Offer:** Through you, Mr Chair, to the ministry staff, who I know are here, perhaps they could provide that information.

My second area is, is this not exactly the same question that we have been posing in principle for the full-time/part-time groups, that there can be a full-time unit and a part-time unit, both unionized, each with its own collective agreement, and there can be an application for merging of those two units?

We don't know now, because of your presentation, what happens to collective agreements, and in fact the solution you have, that there should be a majority of both, is



one which is not allowed in the legislation. I don't know if you have directed your mind to the full-time/part-time.

1030

**Mr Buccella:** I would address that probably more in the way of saying that if there are existing full-time/part-times, then yes, they should have that right, that involvement. As I said, I don't think the legislation is as severe against new certifications, because it's all there in front of you. We're not dealing with something that we've agreed to before. Now we have no way of dealing with it.

**The Chair:** Thank you. We've got to end our discussion because of time constraints. I want to thank the Canadian Paperworkers Union, Local 101. Mr McSween, Mr Catterall and Mr Buccella, you have made a forceful and effective case for your views as they represent the views of the membership of Local 101. We thank you for participating. You have made a valuable contribution, and we trust you will be keeping in touch not only with the members of this committee but with ministry staff and with other members of the Legislative Assembly to make sure that your ongoing views are first and foremost in MPPs' minds. So thank you.

**Mr Buccella:** I'd just like to thank you, Peter, and the rest of the panel as well for hearing us out today. Thank you.

**The Chair:** Take care and have a safe trip back home.

#### RUBBER ASSOCIATION OF CANADA

**The Chair:** The next participant is the Rubber Association of Canada, if they'd come forward and seat themselves. I want to remind people that there are coffee and soft drinks over at the side. That's so that people attending here can make themselves comfortable. Please seat yourselves in front of a mike, tell us your names and your titles, if any, and proceed with your submission so that we have some time left in the balance, at least 15 minutes, for discussion.

**Mr Brian James:** First I'd like to thank you very much for giving the rubber association an opportunity to make a submission today. My name is Brian James and I'm the president of the Rubber Association of Canada. I have with me Glen Maidment, who is my assistant, Bryan DeMarchi, manager, industrial relations, for Goodyear Canada Inc, and Jim Young, vice-president, finance and administration, Dayco Products Canada Inc.

By way of background, the Rubber Association of Canada is the trade association for the rubber manufacturing industry in this country. Our association has some 70 members, including rubber product manufacturers and supplier companies, of which the predominant concentration is in the province of Ontario. The membership includes Canadian-owned and foreign-owned, unionized and non-unionized company members. Our manufacturer members are strongly involved in the automotive business, although this is by no means the only sector which is involved.

A majority of our manufacturing members are foreign-owned, largely by parent companies in Europe, the US and Japan. Despite this, I want to make it crystal clear to the

committee that the association represents the Canadian subsidiaries and that I am not here to represent the interests of foreign owners. Our purpose and our mandate is to support and further the interests of the Canadian entities and only the interests of the Canadian companies.

Although we have had some major closures in our industry in the last few years, we have also enjoyed major expansion and modernization with investment of over \$1 billion to allow Canadian companies to compete successfully in the North American market following the introduction of the free trade agreement with the United States. The Canadian industry has become substantially rationalized with US production in order to achieve major savings in costs both for manufacturers and ultimately for consumers.

I'm sure you appreciate that the rationalization means that certain key sizes are made in Canada and a majority of them exported to the United States, and in return we bring tires back from the US to this market. I should mention that we are none the less a net exporter. This business is both capital intensive and labour intensive, employing approximately 10,000 people in the province.

It should be noted, however, that to the extent that we have lost plants to other jurisdictions, it has been almost exclusively to plants in the southern US where right-to-work laws are in force. We are reluctant to see Ontario labour legislation which could well have the effect of removing more jobs from this area and transferring them to the southern USA.

Our association has worked extremely hard in recent years to preserve and create jobs in the Canadian industry. We believe that we have been very successful in doing this and that any move which would appear to contradict our efforts and encourage business to leave this country, and more particularly this province, is of very considerable concern. You should understand, however, that the point of issue is not my view of the current proposed legislation but the likely repercussions of this legislation on employment in our industry, in this country and in this province.

I'll touch on some points within the legislation, but it's only fair to tell the committee that I'm not an expert in labour negotiations or labour management and I am not closely familiar with labour law. I'm sure you are aware that association presidents are knowledgeable in a large number of areas in great detail and in a few areas very little.

My knowledge and expertise, however, lies in the rubber industry and the rubber products that we make. My concern is with the perceptions that this new legislation is creating within my membership, and I can tell you very clearly and sincerely that these perceptions are very bad for the future prospects of our industry in this province.

The key perception is that this bill is a piece of legislation designed to support big unions in the province without protecting the democratic rights of workers. The bill is perceived to be the most powerful pro-union legislation in North America, coming just at a time when Canada needs to be at its most competitive versus other manufacturing areas on the continent.

The damage in our industry would not be sudden or dramatic because we depend on major capital investment,



as I have pointed out earlier. What is more likely to happen is a lack of modernization and expansion which could lead to a return to the pre-free trade situation when we had plants operated with old equipment behind a tariff barrier so that when the safety net inevitably came down, plants that were not competitive simply went out of business and put workers out of jobs.

That, in our view, will be the longer-term result of this legislation unless some major, and we do mean major, changes are made to the present proposals. If labour reform has the effect of restricting Ontario businesses from producing and delivering quality products at competitive prices, we shall inevitably pay the price in lost business and therefore in lost jobs.

We believe that labour legislation must be fair and balanced, favouring neither unions nor employers. The right of the individual to full and complete information and democratic free choice is essential. An individual should be able to make the decision to join or not to join a union based on free choice and adequate information from all sources.

If there is a need to change current labour legislation, it should be in the area of protecting the workers' democratic rights. By this we mean that all major decisions such as the certification of the union, strike votes and other major decisions should be by means of a controlled, secret ballot. There is a belief that the individual worker, given the democratic right of freedom of decision with full information from employer and union, together with the protection of the secret ballot, will make an informed decision. Any other route is undemocratic and gives excessive opportunity for coercion.

The union movement has of course played an extremely useful role in the development of greater balance in the workplace over the years, but governments must realize that many things have changed since the early days of the union movement. With improved education, workers are no longer the uninformed masses supplying brawn to uncaring Dickensian masters. The process of creating efficiency in the workplace involves workers increasingly in the decision-making process.

Teamwork has become a watchword in modern industry and it's very important that the old confrontational attitude between union and management not be encouraged but rather replaced, as it is in many concerns, with quality circles and similar cooperative management techniques. It is important to remember that the Japanese, who have become leaders in world industry, have developed a system of worker-management relations which is increasingly being adopted by more progressive companies in the west.

1040

Perhaps the most contentious issue in the bill for our members is the certification process change. The membership card basis for support of unionization is wide open for coercion. Certification should be based on a supervised, secret ballot. Consumers are protected from high-pressure salesmen by the three-day cooling-off period. No such escape clause protects the employee from union pressure.

The elimination of post-application petitions will prevent such employees from having a voice. The \$1 card fee

was designed to make employees think about the implications of joining a union. Without the fee, which in these days of inflation is regrettably rather small, an employee may be persuaded to sign without having any real understanding of the implications of his individual action.

We believe that any change in the labour legislation should require a secret ballot vote in all cases for certification, ratification of a collective agreement and the decision to strike.

The use of replacement worker provision in the bill has received a great deal of publicity. In our industry, I'm not aware of an incident when non-company workers were ever brought in from other facilities. The fear of this provision, however, is in itself sufficient to lose a product mandate where just-in-time delivery is critical.

To give you an example, although I cannot identify the member, I am told that one auto parts member will likely have its mandate for North America withdrawn and given to a sister company in the United States if this bill goes through in its present form. The company in question is unionized and has never had a strike, but the parent company in the States simply will not take the risk of losing vital contracts by leaving the mandate in the hands of its single Canadian plant when it is in a position to affect the entire company's relationship with the auto companies. They feel it's a lot safer to transfer the production to the United States. Without that particular mandate, however, there is insufficient production to maintain the Ontario facility.

The fact is that the proposal shifts the balance of power very clearly in favour of the unions. The Ontario economy, and the auto sector in particular, is largely dependent on just-in-time supply and that is frequently sourced through sole-supplier, long-term contracts. Because this is feast or famine, it puts an unreasonable bargaining power in the hands of the unions. Multinational concerns will simply not run this kind of risk and will decide not to place mandates with Ontario companies. If a company can't accept the risk, it will simply avoid it.

It has been suggested by government that the ban on replacement workers is needed to reduce picket line violence. The fact is that it may even increase violence because of the right to refuse to do strike work. Strikers' anger may be intensified from knowing that employees working had the full right to have declined to do so.

Bill 40 introduces sweeping new powers to the Ontario Labour Relations Board. Without going into the details of these new powers, the fact is that they appear to transform the board from an impartial judicial body into an advocate for organized labour.

Currently the board attempts to establish collective bargaining structures that balance an employee's right to unionize with the employer's business environment. We fear that these new powers, and indeed the major thrust of the bill, will increase union strength in the province without regard to the effect on the company's competitive position and therefore the longer-term effect on employment.

In conclusion, we're very concerned that the effect of this legislation in its present form will be a loss of jobs. We fear that instead of encouraging harmonious relations

between management and unions, it will in fact do the opposite. In particular we lament the lack of mandatory secret ballot to ensure the individual worker's right to a fair say.

There is currently no public demand that we can recognize or any economic need for labour reform, but there is a great deal of public concern for the retention and expansion of job opportunities in the province. If it could be demonstrated that there is a need for reform, then it should be fair and balanced, which this legislation clearly is not.

Furthermore, it should respect freedom of choice and protection of privacy of individual members and respect for the employer's need to produce and deliver goods at competitive prices.

Labour legislation will only protect and encourage more employment provided that it does create workplace harmony, cooperation and flexibility while improving productivity and competitiveness. No matter how much labour reform we indulge in, the only real chance of greater workplace satisfaction and greater employment will come from Ontario business success. Competitiveness breeds profitability and profitability creates and maintains jobs. The encouragement of greater confrontation through some of the changes contemplated in Bill 40 is a formula which can do the opposite.

I'm bound to tell you that in my eight years as president of the rubber association and almost 40 years in the rubber industry, I can not recall witnessing such unanimity of view within our membership as I see over this proposed legislation. The industry has spent considerable effort and money to retain a prominent position in the North American market for the Canadian manufacturing companies.

The overwhelming perception, especially in boardrooms outside this province, where investment decisions are made, is that Ontario has had its day. It's no longer a good place for investment. The rubber industry, after all, does not need to be located in this province or even in this country. There's nothing to keep the investment here except our ability to be competitive. We have proven that we can be competitive, but if this legislation is passed in its present form, we will be perceived as being non-competitive and that can only cost us jobs.

What can you do about it? Well, I would say, ladies and gentlemen, start again. Get business and labour leaders to review the current legislation and look for reasonable alternatives that meet real workplace needs and avoid the gigantic negative impact that these proposals bring with them.

If there's one thing that's needed, it's to democratize the union movement, and, through mandating secret ballot on certification, strike votes and other key issues, give the worker his right to a private vote following free access to information from employer and union.

The fundamental basis for the Ontario economy is manufacturing. Service industries have little future without the primary industries to serve. This legislation is likely to cost us jobs in the rubber industry and it's therefore a very serious cause so far as we're concerned. For our part, we're anxious and willing to do whatever we can to assist. Certainly, what is needed is understanding and a climate of

real cooperation. We need to put confrontation aside, behind us, and work together for the common good. Thank you, Mr Chairman.

**Mr Brad Ward (Brantford):** I'd like to thank you for your presentation. I think it's very worthwhile that people like yourselves come down and make this committee aware of your views.

In Brantford we've been hard hit not only by this recession but by the previous one as well, with a number of plant closures due to corporate restructuring or bankruptcies. But we've had some good news as well, and one of the good news items was Gates Rubber, which announced a \$4-million investment in the plant in Brantford—we have two plants—to upgrade and expand its belt production lines.

This announcement, I think, shows that there is confidence in what the rubber industry can do in Ontario and be competitive. I really believe they made the announcement—because the plant is privately owned with the headquarters in Denver—based on the skill level and the cooperation that has been shown with the employees and the management. The employees are represented by Local 733 of the United Rubber Workers. Workers. The idea of the expansion is that it's the team concept where the employees become multiskilled and are able to work various components of the line rather than simply doing one singular job. Part of the reason we feel it's important to update the labour law is for this very reason, that the workplace and the workforce are changing. Do you have other examples or do you agree that the workplace, if it hasn't been changed, should be changed if it's to remain competitive in today's global environment?

1050

**Mr James:** I would say that within the industry we've had a very substantial change in the workplace. That's absolutely true. As I said in the presentation, we've moved away from its being a matter of brawn to being a matter of ability, technical ability and so on. But I'm sure you'll appreciate that it's not for me to comment on any individual member. What I'm here to do is to present to you the views that come to me through the membership. I'm bound to tell you that I haven't had any plaudits in regard to Bill 40 from any single one of my members.

**Mr Will Ferguson (Kitchener):** Thank you very much for attending this morning. I have just one question. I want to use as an example some of your current members. Let's take, perhaps, Uniroyal Goodrich. Right now the plant that will continue operation in Kitchener has about 1,000 employees. I'm aware that when they decide to withdraw their services or go on a legal strike the company doesn't hire replacement workers. It's virtually impossible, not unlike General Motors. I also understand that of course the plant's already organized. How is Bill 40 going to directly impact a company like that? I mean, you don't use replacement workers now, you probably wouldn't, in any event, in the future, and the company's already organized.

**Mr James:** Again, it's very difficult for me to talk about an individual company's situation. However, the



kind of information I get back from all the members is that this sort of move—I agree in the case of Uniroyal Goodrich and I don't know of a company that's used replacement workers. But certainly I have had cases cited to me where they say, "We simply cannot take the risk." In the case of the tire companies, they probably can find product from other plants, but that's not true of every organization. Certainly the one I was referring to—

**Mr Ferguson:** Excuse me. You said they can't take the risk. You know, if the company goes on strike, it goes on strike. They can do that today under the the present legislation. Bill 40 isn't going to change that.

**Mr James:** Yes, but if they have a just-in-time delivery program, and they happen to be the only plant producing that product, then they're going to fail in their just-in-time delivery.

**Mr Ferguson:** But they would fail regardless of whether we implemented Bill 40, wouldn't they?

**Mr James:** No, not necessarily, because they take the view that without it they would be able to use workers from other plants. I'm not talking about outside ownership, but people who have experience, or sufficient of them, to be able to run the operation. That is the perception.

**Mr Offer:** I want to stay on that same area because, as you will most likely be aware, this whole issue of just-in-time suppliers, especially in the automotive sector, is one which really was raised as almost a first concern with the proposed changes to Bill 40 in the replacement worker area. The last comment you made was that if there is a work stoppage, there is no example of replacement workers being brought in. But did you go on to say that there has also been the example of other workers from other plants being brought in to do the work?

**Mr James:** I can't quote you an example—I don't know whether my colleagues can—but certainly some members have indicated that without the opportunity to do that—in extremis, I accept; I mean, this is not the sort of thing one hopes will happen—if you are a manufacturer with a number of plants in the States and simply one in Canada which has been given a sole-product mandate to supply a part and you fail to supply that on a just-in-time basis, it could have very serious repercussions on the other plants and therefore on the business as a whole. That's the view which is being taken by some people about this just-in-time, even though they may never in fact have ever employed workers from another plant.

**Mr Offer:** When we speak about just-in-time—I am totally ignorant on this—is it something new or is it something which the economy and the new challenges of competition have dictated, so it's something for which you can't really use past examples or past experiences on, an area which is really new and becoming a little more severe in terms of the just-in-time aspect?

**Mr James:** It's relatively new. I couldn't say when it was introduced; I really don't know. But it's certainly relatively new, and obviously the idea is to reduce the cost of work in process and the cost of money tied up in parts. Effectively, an automobile company, which basically as-

sembles parts that come from other people, says: "We need your tires" or your gaskets or whatever. "They've got to be here by 4:30 in the afternoon to meet that production schedule; 5:30 won't do. We've got to have them on the dot of 4:30." That way the scheduling is pushed back into the supplier companies. Obviously, they schedule very tightly so as to reduce their work in process and reduce cost. But that becomes critical, because if the vehicle cannot be made because they're missing a few gaskets, clearly the cost to the automobile assembler is very high. The chances of that supplier retaining his contract are slim.

**Mr Carr:** Thank you very much for your presentation. It was very clear. Just to clarify, one of the concerns isn't with the individual company going on strike and shutting down. What people have said is that it's the suppliers. If I'm a company—this is along the same lines—and I can't rely on you to get parts to me, then I'm not going to get you as my supplier.

Can you actually see this? Let's talk from a business standpoint. You're XYZ Co. If you have two suppliers, one union and one non-union, do you think decisions will be made to go to the non-union company because you know if you go to the union company, it won't be able to bring replacement workers, so you won't be able to get your product for just-in-time? Do you see that as being a major decision on the part of companies that may be union, to go to non-union companies to get around this replacement worker ban? Can you see that happening?

**Mr James:** It's clearly an option. This is a surmise on my part, really. My surmise would be that companies would probably continue to do business with a long-term supplier, provided that it has given them reasonable service. I think the more likely scenario is that the parts manufacturer may try to transfer his business out of that plant, if he feels the business is in any danger, into a plant which doesn't have the same kind of risks. Based on the fact that this is Ontario legislation, then the chances are that that plant would be outside this province.

**Mr Bryan DeMarchi:** Mr Carr, if I can just turn the corner a little on that, maybe the other question we have to ask as Ontario employers and employees is that we have a great concern with keeping jobs in Ontario. We don't make the investment decisions, as Mr James commented earlier. Right now the legislation gives both management and union baseball bats. We fight each other and we generally come up with solutions to most of our problems. We and our parent companies, the ones that hold the purse strings, see this legislation as giving a bigger baseball bat to the union. That scares us, because what that means to us is that, given that everything is equal, they're going to put their investment dollars where the union does not have as big a bat or where there is a non-union plant. So from our concern, we see the Canadian operation and the Ontario operation being jeopardized largely because of this legislation, largely in investment dollars, and that's a major concern. It means loss of jobs. Hopefully not, but we can see that. That's a fear. Maybe it's unfounded, but I'll tell you right now, it's the perception of all of us manufacturers and of our parent company investors.

**The Chair:** Thank you to the Rubber Association of Canada for its interest in this matter and for attending here today. We appreciate very much your coming.

1100

#### DURHAM REGION MANUFACTURERS ASSOCIATION

**The Chair:** The next participant is the Durham Region Manufacturers Association. Please come forward and seat yourselves in front of a mike. Tell us your names and your titles and carry on with your submission. Try to leave the last half of the half-hour for exchanges and comments.

**Mr Desmond Newman:** Mr Chairman, ladies and gentlemen of the committee, thank you for receiving us. I'd like to introduce my colleagues who are with me today: Elaine Minacs, president of the Minacs Group, a Canadian human resources company, and David Lim, president of Pacific Engineering, a Canadian company involved in trading in the Pacific area. Mr Roger Wright, who is the president of Dowty Canada, an aircraft systems manufacturer which is British-owned and trades internationally, was called away this morning; he offers his regrets. My name is Desmond Newman. I am president of Cametoid Ltd, a Canadian company involved in advanced materials and coatings.

Second, I want to introduce our organization, the Durham Region Manufacturers Association. Our members include manufacturing firms, banking, transportation and the service industries. The companies are as large as General Motors of Canada, which employs some 17,000 people in our immediate area, and as small as J. Mulcahy Enterprises, which has some 17 persons on staff. Specifically, we represent the direct interests of some 160 member firms.

We believe that the DRMA was the first management organization in the province to choose the route of co-operation rather than confrontation after the proposed amendments were announced. We agree with the Minister of Labour that the workplace has changed, we recognize and understand the enlarged role of women and minorities, but we think it is also important to understand the massive changes which have taken place in the marketplace. In order to survive today, companies are becoming leaner, with an eye to greater flexibility, reduced overhead and increased specialization.

Let me tell you a story about Kim. Kim is the owner of a small Japanese die-making company. His company makes dies from which are produced thousands of automotive parts, on occasion millions. Over the last five years he has organized himself around an electronic network that links him both to some giant automotive customers as well as to a highly specialized family of suppliers.

One of his customers sketches out the outline of a new part which he needs urgently and sends it to him by fax. One of Kim's engineers generates the specification on a computer-aided design system in a couple of hours and sends it to one of his suppliers who has a particular piece of numerically controlled equipment well suited to that job. The die is completed, again in a matter of hours, and made ready for shipment to Kim's customer by overnight

courier. It is not uncommon for all operations to be completed in one working day.

There is nothing really noteworthy about Kim and his story, except that his customer is in the greater Toronto area and one of Kim's principal competitors used to be in Concord, just north of Steeles Avenue in Toronto. That was until last Christmas, when that company closed its doors because it could no longer serve competitively a customer who was only 20 miles away.

I didn't tell you that story because we like black humour, but to underline the fact that our world has changed dramatically in manufacturing in a few short years.

Before coming here we asked ourselves, what can we as the DRMA bring to this committee that will really mean something, something that will cut through the rhetoric and the noise and the exhausting emotional and factual input that is pouring in around you? What can we say that you haven't heard before or that will impact those of you who see the present form of Bill 40 as a fait accompli, with no room or time for significant change?

I don't know if we can deliver something new or powerful enough to change something that has been in the works for so long, certainly not I nor the DRMA alone, but I hope you will listen to what we have to say in the context of what has become a consistent and desperate appeal on the part of business, particularly small and medium-sized businesses, to save their industries and ultimately to protect the jobs in this province.

The majority of our members are small and medium-sized firms; 80% employ fewer than 100 people. In fact it is those companies that represent the majority of firms in this province and are recognized by this government as being responsible for creating 75% of the net new jobs in Ontario, as set out in the recently published An Industrial Policy Framework for Ontario.

We acknowledge that labour issues and legislation must change in response to our changing economy. We understand and we do not oppose labour reform. But it is in the difficult areas of balance and timing that we wish to focus. The issue is, how much and when? How much is too much? What is the right time? How do we even find out? I hope it is on the issues of that kind that you are focusing.

Do you recognize that the perception out there is that this legislation is union-driven and that the government is serving its own constituency rather than the Ontario community, and do you agree that perception must be dealt with along with reality?

What is the perception in our marketplace today? How do our customers in the United States and elsewhere see us today? We know that they are deeply concerned by what they consider to be onerous labour legislation. We have been told by one of our members that on every visit to major American customers the question comes forward, what has happened to the labour legislation in Ontario? We often think Americans ignore Canada. The reality is that in business dealings they are acutely aware of the environment in which we operate.

With respect to timing, why is it imperative that we proceed at this moment, in the middle of the harshest recession



anyone in this room has ever known, to choose to change the balance in the delicate business of management-labour relations?

That is why in our earlier submission to the committee chaired by Sharon Murdock, the member for Sudbury, we made what we thought was a constructive suggestion, that because of the complexity of the legislation and the intense reaction from business, the package be referred to a tripartite commission made up of government, business and labour representatives.

Following that suggestion, the Premier, Mr Rae, appointed a Labour-Management Advisory Committee to assess ways in which labour and management can work together to improve the workplace for all Ontarians. Surely the matter of the amendments to the Ontario Labour Relations Act can be put as a first order of business on the agenda of that committee, and surely it is capable of reporting back a package of amendments which can accomplish the end of workplace improvement. Why is that process not an acceptable one? We see that as a logical and essential step to a rational solution, for solution we must have, because we have a particular worry as manufacturers.

We are worried that our businesses are threatened, but it worries us a great deal more that manufacturing overall in the country and in this province is in serious difficulty. Economists agree that a sound manufacturing base is paramount to a developed economy. The more successful the manufacturing sector, the more wealth is created, the more jobs are created and the more everyone benefits. We want a province and a nation where everyone has well-paid, secure employment. After all, in addition to well-paid employees being effective on the job, they are consumers with money to spend. If the manufacturing base continues to erode, it is inconceivable that any real recovery is possible.

1110

One of the essential keys to that recovery, we believe, lies in greater cooperation with our workforce, in all of us working together.

In the province's recent industrial policy it says, quite correctly, "The provincial government's economic and social responsibilities put it in a unique position to help develop creative partnerships among business, labour, communities and government to create competitive advantage and overcome structural weaknesses."

That partnership has to be fostered.

Later on, the policy document says: "The industrial policy is not a budget, a blueprint for the economy or a short-term countercyclical policy. It is a made-for-Ontario industrial policy with many distinctive features."

One of the features, it notes, is that, "It emphasizes fairness in the restructuring and adjustment process." That's worth repeating, "fairness in the restructuring and adjustment process." That is what we're talking about.

We're finding ourselves in an increasingly tough battle to thrive and grow, indeed even to stay even. Competition from abroad continues unabated. It appears to be profound, it's growing, and especially with free trade and its recent expansion to include Mexico, it is unavoidable. The intensity and seriousness of the situation cannot be underesti-

mated, for this province is facing its largest economic challenge since the Depression.

This, then, is clearly not the time to introduce measures that may have an adverse effect on the economy. Now is the time for the exact opposite. Innovative labour legislation should make a positive difference, but only if it is developed consultatively and implemented effectively by all the affected parties.

In this context, we make three points:

First, the legislation should be used as a pivotal opportunity to forge a fundamental improvement in the trust and cooperation between labour and management. As stated so many times by the provincial government, the key to recovery lies in greater cooperation between the parties. We do not believe that the process used to date, nor some of the proposed changes, are fostering a more cooperative approach. Indeed, they appear to have done the opposite. Witness the reaction from the employer camp. But Ontario can no longer afford to have camps. We must move from camps to teams. We believe that industry and business should be invited to sit down with labour and government to discuss ways to effect greater cooperation in the workplace. Anything worked out in this manner has a greater chance of success.

Second, we understand the need for improvements to the act, but the speed of implementation and the lack of acceptance by all parties may doom it. Time is needed for a more meaningful approach.

Third, if the government deems that some aspects of the proposed legislation absolutely must be introduced, then we would urge that the initial implementation strategies exempt those sectors most at risk. Foremost among those is manufacturing, for serious damage to manufacturing is a possibility, and should that possibility become reality, then the consequences will remove the province from its first rank in the nation.

In Mr Rae's January address, he said:

"We have to get this province moving again. If we're going to keep and improve services to people, if we're going to build that fairer society, we have to get the economy going. And I commit this government to working with you to this end."

In response, we believe therefore that we need to do the following things: allow a more genuinely consultative process so that it can be used as an opportunity to forge fundamentally better relationships and cooperation between management and labour; amend the timetable so that all parties can ascertain the true and full impact, and amend the initial target sectors to exempt those who are most at risk and who add strategic value to the economy.

We understand that this government is facing a greater challenge than any Ontario government in recent decades, and we agree with the Premier that none of us can tackle that challenge alone. That is why we pledge to assist the government in any way we can. We believe the goal should be to encourage job creation, investment, employment stability, competitiveness and economic growth so we may all enjoy a more healthy economy. That is the message we heard from Mr Rae on January 21 and one we can endorse.

But let us turn for a moment to our own region. It has gone from being one of the fastest-growing regions in Canada to one which now has three million square feet of empty industrial space in just three short years. It is heavily automotive-oriented. It is the birthplace of General Motors and the sustenance of our region.

That industry, as you are aware, survives on just-in-time procurement. In four hours a car seat of a certain type and style and colour can be manufactured, packaged and delivered to General Motors in Oshawa. In short, as GM goes, so goes the region.

Can you imagine what would happen if any of those suppliers is struck and cannot use replacement workers to fulfil its contractual requirements? General Motors of course cannot wait until that strike is settled. It must continue to have access to a supply route. To many of these suppliers, that would be the kiss of death. Therefore the issue of replacement workers is obviously of concern.

Associated with that issue is the question of picketing on third-party premises.

Those issues simply underline the problem of the legislation's impact on long-term investment and the atmosphere for that investment. You know the Big Three have made commitments in recent days with respect to the automotive industry. Those commitments, however, are not guaranteed in the long term. For example, only \$500 million of Ford's \$2-billion commitment has been implemented. General Motors' decision on plant 2 in Oshawa only goes until 1994.

The importance of those matters should not be underestimated, because we live in an economy where major decisions are made elsewhere, and we cannot continue to presume on the goodwill of those decision-makers. As you know, some of that goodwill has been and is related to Ontario's preferred cost position with respect to things like electricity. The present expectation is that we will lose that cost advantage by 1994 and we will have little then to offer beyond improved performance and productivity.

In summary, we ask that in considering the impact of the legislation, the government give priority to fostering economic growth, ensuring employment stability, creating good jobs and building confidence for investment.

We would respectfully make three recommendations: First, recognize that cooperative labour relations must become a key strategy for Ontario's economic renewal; second, use the legislation proposed as a pivotal opportunity to forge a fundamental improvement in labour-management relations in Ontario, and third, use the Premier's Labour-Management Advisory Committee to review the legislation and make binding recommendations to achieve the above.

Ladies and gentlemen, we've appreciated the opportunity to be here. We thank you for your attention. My colleagues and I would be pleased to try to answer any of the questions the committee may have.

**Mr Offer:** Thank you, Mr Newman, for your presentation. It certainly does send out a message of consultation and cooperation and balance. I agree with you that this is not the time, nor is it ever the time, that management be painted in one corner and labour in the other. I think that is

most destructive for the growth, harmony and enhancement of rights for workers in this province.

You may be interested to know that as we hear concerns about the legislation, it is not just from the management side or the business side that we hear concerns; it is also from school boards and children's aid societies and municipalities and municipal hydro services. They too share some very deep concerns with the legislation.

I note in your recommendations that you think the Premier's Labour-Management Advisory Committee would be a very good place to review this legislation. I agree with you wholeheartedly. It is unfortunate that the Premier has indicated that this committee, which was set up on June 5, one day after this bill was introduced, will not do the type of work you've asked that it do. I believe it's unfortunate that they have taken that position.

1120

My question to you is on the issue of an impact study and economic analysis—not just economic but job analysis and those things. Is that necessary for a bill of this kind, before proceeding with the bill?

**Mr Newman:** Mr Offer, I frankly don't know. I think it would be an irresponsible thing to do. I think many of the pieces of workplace legislation which this or any other government would introduce in this kind of economic environment would need to have regard for that kind of effect. I do not think, however, it ought to be used to string out the process. I think if we are serious about having some labour legislation changes then let's go do it, but let's do it in an environment where the players are equally presented and have an equal opportunity to agree and compromise, if necessary, on some material changes.

The time is not available to us to play games. We are in a very serious, dirty recession. The blood is still very thick out there. People are still being put out of jobs. We as manufacturers have little heart for this process.

The thing that maybe does not quite come through in our presentation is that even the Premier's labour-management committee, if you look at the composition of that committee, is big labour and big business. Where is small and medium-sized business in that committee? It needs to have representational balance. It's not good enough to simply put the big guns at the table. Hell, they can make all the arrangements and accommodations they want, but then the small guys get squeezed out.

The small guys happen to be Canadian companies in Ontario and they are being hurt desperately. They can't fend off the bank on the one hand, the new environmental regulations on the other hand, the workplace legislation and the department of revenue. Everybody's at their throats but nobody is defending them, not even this government.

**Mrs Witmer:** Thank you very much for your presentation, Mr Newman. I appreciate your attempts to encourage the government to work cooperatively together with all the players.

I think what you've indicated is certainly true. From the initial outset of the process it has very much been big labour and big business, and the small business person in



this province has been ignored. We've heard from the retail sector and the hospitality-restaurant sector the tremendous implications this legislation could have, particularly in the area of replacement workers. We've already heard of hotels that are moving their 800 numbers to the south because of fear of this legislation. We're hearing from the automotive sector that fear of this legislation is going to cost us jobs.

Certainly your concern is one that hasn't been addressed. We can't wait. We need to deal with the issue but we certainly need to involve all the people in this province, not just the big guns at the top.

I think you've made an important point here. You indicate that the automotive industry, although it has made some commitments—the government is saying, "Look at Ford, look at GM"—only \$500 million of Ford's \$2-billion commitment has been implemented. I think we forget that. We also forget that the General Motors decision on plant 2 only goes until 1994. There is no guarantee that those two automotive manufacturers are going to continue to invest in this province.

Have you given any consideration at all to the right of the individual to a secret ballot vote on certification? This is an issue I've been concerned about, because although under this legislation unions get more power and responsibility, it appears that individual rights are being infringed upon.

**Mr Newman:** Answer: yes. One of the things we tried to avoid was getting into the details of the legislation, because we felt it was inappropriate and we were not sufficiently competent to address the interrelated issues here. But there is little question that you're correct. The rights of individuals in a voting process, for example, as to whether they want to be part of that strike mandate or not and their right to work if they do not sympathize are certainly individual rights for which we should have some regard. The reason it isn't present clearly is that we tried not to address those kinds of requirements or questions which we felt had to be points of negotiation between the stakeholders. That is why we think that any commission—if the government accepts a recommendation to move this batch of amendments to a tripartite commission—whether it be the Premier's Council or another, ought to have a balance in representation, because those issues are clearly issues of importance.

**Mr Bob Huget (Sarnia):** Thank you very much for your presentation. It was very thoughtful.

On the issue of investment, it's at least worth mentioning, and Mrs Witmer raised it, the Ford investment and the General Motors investment. Those are significant investments to the tune of \$1 billion. That says something about the attitude of investors towards this province and what we have to offer. There are a number of other major investors—Canadian General Electric, Glaxo Canada, Northern Telecom, 3M, Kraft General Foods—besides Ford and GM that have made significant investment announcements in the last short period of time. That says there is investment in Ontario and there is some investor confidence in Ontario.

One of the problems I have, which I think I share with you, is that small and medium-sized business in this country has been in an uphill struggle for a long time. You mentioned in your presentation on page 9 that the importance of investment matters should not be underestimated because we live in an economy where major decisions are made elsewhere.

**Mr Newman:** Precisely.

**Mr Huget:** In my view, and I'll be non-partisan, the fact that the Canadian situation is indeed that presents us with many problems. We have seen a shift of the decision-making process away from Canada and away from Ontario. This province and this country does not have enough Ontario business and Canadian business, and Canadian businessmen and Ontario businessmen, to have a truly Ontario or Canadian economy.

It's a difficult problem and what we've done as a society in this country is we've tended to subsidize energy, transportation, research and development and we've paid precious little attention to forcing the need, as government policy Canada-wide, for upgrading and innovation in a number of areas, and one of them is labour relations and labour-management innovation. Regardless of whose responsibility, federal or provincial, that's an approach that has been sorely lacking. We've had a tendency in this country to encourage the inability or the reluctance to upgrade anything, including one of business's major inputs, which is labour.

My question to you is, what is your view about the role of the workforce in the workplace in small and medium business? I agree with you 100% about the need for new relationships and cooperative approaches. I would like to hear more of your views on that issue as it affects small business and particularly Ontario's small business and manufacturers. Is there a positive thing that can come out of increased workplace participation by workers helping their businesses and thereby their employers become more competitive, more effective, more productive and therefore survive?

**Mr Newman:** There are any number of things. As a matter of fact it's an essential requirement today, because we cannot and we will not be able to compete internationally unless we are able to use the skills and ideas of the people who are in our businesses, and I'm talking about small business. I don't think there is a single small business left in Ontario that has any respect for itself which does not already solicit the views of its people. People on the floor, doing the job, know a great deal more about the intricacies and the need for dexterity and initiative than the owners in many cases. Certainly the owners got there because they understand the business, but the actual mechanism of performance on a day-by-day basis in production surely comes out of the hands of the people who perform the work, and they have many ways to facilitate that process.

This is the kind of thing that we need to get the government to orient to the small and medium-sized companies more directly: facilitation and financing. Show me which bank you can go to today to get \$1 million for small business.



Show me any bank where you don't have to give your wife as security and your house and everything else that you possess, apart from the hard assets. Show me anyplace where any bank will finance R&D for small businesses. They run from that kind of process.

But in terms of your specific question, small businesses now have to rely on their employees; they have no alternative. If we would create in the province the kind of environment we're talking about, a more reasonable business-labour relationship, we would facilitate that process.

Let me tell you what my colleagues and I have been trying to do in the last six months since this matter became a matter of issue. We've had four private meetings with senior labour leaders in our region in an attempt to try to build bridges and discover what we might do jointly in order to solve and address precisely some of these problems and to persuade the government with respect to legislative effort. The thing that is a bit discouraging is that they are wonderful people, willing to talk about anything, save and except the amendments to the Labour Relations Act.

**The Chair:** All right. That having been said, I want to thank the Durham Region Manufacturers Association for its participation in this process. The committee has listened carefully, I'm sure, and you've made a valuable contribution to the process.

**Mr Newman:** Mr Chairman, ladies and gentlemen, thank you very much; we appreciate the time.

1130

#### AUTOMOTIVE PARTS MANUFACTURERS' ASSOCIATION OF CANADA

**The Chair:** The next participant is the Automotive Parts Manufacturers' Association of Canada. Would the spokespeople for the Automotive Parts Manufacturers' Association please seat themselves, tell us who they are, what their titles are, if any, and proceed with their submissions, leaving the second half of the half-hour for questions and exchanges.

**Mr Neil De Koker:** My name is Neil De Koker and I am president of the Automotive Parts Manufacturers' Association of Canada, or APMA. With me is Tom Dattilo, president of Hayes-Dana. Tom is also currently serving as chairman of the board of APMA. Also with me is Gary Ferlecki, president of Hull-Thomson. Gary serves as chairman of APMA's human resources committee, which has been deeply involved in developing the APMA position on this bill.

We are pleased to have this opportunity to talk directly to this committee. It is our sincere hope that maybe through this process someone here will recognize that there is a genuine tragedy taking place in our great province that will have a long-lasting and detrimental effect on all of us.

The automotive industry in Canada, in fact in North America, is undergoing a major transition. Global competition has resulted in a major loss in market share by the traditional North American auto makers. Taking over this market share are the transplant manufacturers, primarily from Japan. For every job that the Japanese assemblers have created, two jobs within the traditional industry have

disappeared. This is largely because the Japanese assemblers import a much larger number of parts from outside of North America.

While there has been a major increase in auto assemblers in North America, there has also been a major increase in auto parts makers. This has resulted in intense competition in a depressed market with much excess capacity. These pressures during a period of economic downturn have resulted in the closing of 50 automotive parts plants in Canada and a loss of some 20,000 jobs permanently during the last three years, primarily in Ontario.

I should add that over 80% of the Canadian automotive parts business is with companies in the United States. Any actions that reduce the competitiveness of Ontario as a place to do business compared to neighbouring provinces or states will result in a movement of companies to the lower-cost areas, as dictated by these global competitive pressures.

A vital key to success in recent years is the broader recognition that employees truly are a company's most valuable asset. More and more, companies recognize that when people are truly empowered to be all that they can be, the company can achieve global competitiveness in all respects. This means that employees and management work toward common goals, share information openly, focus on the customer as number one in all aspects of the business and share in the risks and the success of the company's results.

The Minister of Labour, Bob Mackenzie, has stated strongly that he believes it is essential to promote harmony and a partnership between labour and management in order for us to be competitive in the decade of the 1990s and beyond. We couldn't agree more.

Minister Mackenzie has also stressed his belief that a labour-management partnership can best be attained in organizations where employees are represented by a union and that a union is a positive force for labour-management partnership. I'm sorry to say there is much evidence to dispute this, much more so than there is in support of it. On the basis of this fundamental belief, however, Bill 40 promotes and facilitates the formation and powers of unions and, in so doing, seriously shifts the balance between unions and management at the expense of democratic principles.

It is our fundamental belief that strengthening the power of unions will not enhance labour harmony or a labour-management partnership. In fact, this shift in the balance of power will drive a wedge between us that will further frustrate the already onerous mandate of bringing employees and management closer together to achieve common goals, a mandate that is essential for our long-term survival.

We are angry and we are frustrated. We know that Ontario's recovery is dependent on consumer confidence and on investor confidence. Anything that scares away investors will have a severe impact on Ontario's economy. From the time of the release of the Burkett report, business has voiced its overwhelming concern about the principles that underlie Bill 40 and the impact on investment and jobs.

Despite our continuous requests to do so, this government has not once brought the workplace parties together to openly discuss workplace issues. They say there is little use in bringing the parties together because there is such complete disagreement on the issues and on the solutions. If this is so clear, why then is this government imposing legislation that so strongly tips the balance in favour of one of these parties, traditional big unions, a party that represents only one third of the workforce? Where is the mandate?

Union leaders have called our concern about Bill 40's impact on investment and jobs fearmongering. In fact, Gord Wilson of the Ontario Federation of Labour has stated it is similar to business opposition to child labour legislation at the turn of the century and business opposition to women's suffrage a little later.

While this kind of rhetoric is taking place, we are also faced with union leaders who publicly state they prefer an adversarial relationship with management and to work outside of the corporate system. Buzz Hargrove, the new president of the CAW, is quoted in the July 27th issue of *Automotive News* as saying he wants no part of joint operating programs in which union and management work as a team to administer solutions to problems at plants. He further states, "We reject the philosophy that workers' wages somehow have to be tied to the success of the corporation."

The July 17th issue of the *Labour Times* contains a major article quoting a number of union executives as being against total quality management and just-in-time production because they are "synonymous with union-busting."

Bob White, president of the Canadian Labour Congress, has stated for years that workers don't join unions to lead them backwards, in his fight against workplace changes that recognize global competitive requirements which are almost always referred to with the inflammatory term "concessions."

This strong opposition to change in the workplace demonstrates a lack of acceptance of economics and the dynamics of global competitiveness. It also demonstrates a real lack of commitment to people. Change keeps our businesses globally competitive, thereby strengthening our economy, which results in growth in new businesses, technologies and services that will require many people for the jobs of the future.

1140

APMA members cannot support a bill that would facilitate such negative thinking. Workers, companies and countries do not need and will not survive with unions that are unwilling to face the realities of global competition, that refuse to believe in partnerships and common goals, and who continue to operate within the traditional outdated rules of adversarial relations in order to maintain their traditional strengths.

This is not an attack on the millions of unionized workers in Ontario, as Minister Mackenzie claimed last week. In fact, we find that our people are generally very supportive and eager for more workplace participation and involvement, whether they are unionized or non-unionized. In the case of many of our unionized companies, however,

the big problem is generally in getting the third party—the union—to not oppose these kinds of programs.

The fact is that Bill 40 makes our customers in the automotive industry less likely to deal with us. Our customers have said it will disrupt just-in-time concepts. In fact, shortly after Bill 40 was introduced, the Deputy Minister of Labour presented the contents at a briefing of business leaders in Detroit, many from the automotive industry: our customers. The result was that these business leaders are very concerned about their investments in Ontario and about sourcing their business with companies based in Ontario. We know this because they have told us so.

Our customers, the assemblers, are already under pressure to further rationalize the supplier base and to buy American. Let's not give them more reasons to stop sourcing from Canadian-based companies.

Time does not permit me to discuss each element of the proposed changes to the Ontario Labour Relations Act. Let there be no doubt, however, that this legislation will accomplish the exact opposite of what is needed to achieve a partnership for success and will result in reduced investor confidence in Ontario as a competitive place to do business.

The entire bill is of major concern to APMA members including: restrictions on the use of replacement workers during a strike; provisions that make it easier for unions to organize and obtain certification; new powers of the Ontario Labour Relations Board to consolidate bargaining units; a purpose clause that promotes the interests of unions; access to third-party premises for organizing and picketing; first-contract arbitration that assures a union contract with little consideration for business issues and the balanced interests of both parties; service industry contractors such as cleaning and catering, which must assume the employees and contract terms of the previous contractor; a major extension of the discretionary powers of the labour relations board in a number of areas; and security guards who are allowed to be members of the same union as the employees of the company.

Let me review just a couple of the areas in more detail to better illustrate our concerns about the bill.

Banning the use of replacement workers: The bill proposes fundamental restrictions on an employer's ability to operate during a strike by prohibiting the use of new hires, employees from other locations and contractors. Certain emergency operations are exempted.

The bill fails to recognize the interdependent nature of today's economy where businesses are largely dependent on just-in-time supply and delivery of goods and services which are frequently sole-sourced through long-term contracts. Over 80% of the Canadian automotive parts business is with the United States and operates on a just-in-time basis. If we fail to deliver products and shut an automotive assembly line—at the cost of millions of dollars and impacting thousands of people—the business will be lost, most likely for ever. Even more important, however, we won't get a chance to quote on future business unless we can demonstrate a plan to assure continuity of supply under all conditions.



Companies in the automotive industry are unique in that the final product that gets sold to a customer includes over 10,000 parts which come from hundreds and even thousands of suppliers from all over the world. Assurance of delivery on time to the automotive assembly plants is a critical element of being a selected supplier.

Competitive pressures have resulted in the elimination of waste everywhere, including inventories and just-in-time delivery. Traditional strike banks are a thing of the past and violate the principles of just-in-time manufacturing or lean production, which also demand employee involvement and participation in the business in order to succeed.

Replacement workers are rarely used in our industry due to the complexity of our business. However, when you take away a company's ability to service its customers, you take away its ability to keep jobs in Ontario. Our customers will decide to move the business unless we maintain our just-in-time delivery commitments to them. Furthermore, taking the balance of power away and shifting this to the union will result in uncompetitive agreements and the assured uncompetitiveness of the company over time.

Government's key argument for this change is that replacement workers who might be called upon to ensure just-in-time deliveries to keep the business going are a major cause of picket line conflict. We believe that if this is the case it should be addressed directly, without the far-reaching and economically disastrous consequences of outlawing replacement workers. Instead, set standards for picket lines and recognize that their purpose is for public information and not for production disruption, and provide enforcement through the powers of the Ontario Labour Relations Board as well as the law. At the minimum, we believe that companies in our complex and interdependent industry who deliver products on a just-in-time basis should be exempted from this restriction in an expanded definition under essential services.

Easier organization and certification: The bill puts forward several amendments designed to facilitate trade union organization campaigns. An employee's right to join a union and participate in its affairs is a fundamental workplace right. Equally important, however, is the principle that his or her decision should be made freely and with full information. The decision to join a union is not a decision for the employer or the union; it is the employee's choice. Employees are entitled to know the significance of signing a union card, whether they can change their minds, what it means to be a member of a union and what they can expect from collective bargaining.

Bill 40 amendments will severely limit the opportunity for information, reflection and a change of mind. At a time when critical decisions are being made, there is no balanced source of information. The most certain way to ensure fairness is a secret ballot vote, the basic democratic decision-making procedure. In addition, the labour relations board should administer a procedure whereby the employee can obtain the views of both management and the union prior to taking a vote. We would support a forum that would facilitate this kind of process. The challenge is

to develop an open procedure that lets employees exercise their basic democratic rights without improper interference by either party. Bill 40 fails this test of fairness and balance.

On consolidation of bargaining units, the bill proposes to give the labour relations board a more general ability, upon application from a union or employer, to consolidate bargaining units, a change which would facilitate the ability of trade unions to organize small units and then quickly move for consolidation of those units to provide greater power in collective bargaining. The end result may be bargaining structures that compromise the operation of the business and fail to take into account the wishes of employees in each unit.

In today's workplace, an employee may or may not wish to be locked into a larger bargaining unit, where power over collective action may rest with employees at other locations. Furthermore, this greatly impedes the ability of employers to keep their businesses running. A minor dispute at any one facility could jeopardize the operation of the total business. It would not be possible to move work to another facility to keep from losing the customer as a result of possibly shutting them down, even though this is allowed elsewhere in the bill.

We believe more reasoned criteria are required in the bill that would respect the rights of employees in the individual bargaining units and would ensure the balanced interests of employers and the unions. These are only three examples that demonstrate that the bill, as written, will do nothing to achieve workplace harmony, the hallmark behind these proposals, according to the Minister of Labour.

So why is this government proposing this legislation? This government assumes that by giving unions a bigger club to wield, there will be workplace harmony and partnership; this government is wrong. Automotive parts companies are in a global industry; the pressures to compete are relentless. Business is won and lost every day among a group of competitors from all over the world who win on the basis of technology, quality, price and delivery. Passing the most pro-union labour law in North America is not only a disincentive to investment and job creation, but it places a serious impact on our members' ability to work with their people to achieve the continuous improvements needed to win business.

Ask the investors that I have here with me today. Ask the Deputy Minister of Labour, who went to Detroit to describe Bill 40 to our customers. Commission a study to look at the economic impact of this bill. A number have already been done, and the results are overwhelmingly negative. Don't believe us; do your own study. But don't proceed with Bill 40 in this form without knowing what the impact will be. Use this opportunity to tell your constituents, as their member in the Legislature, you care about protecting their jobs.

Many Canadian managers understand that empowering people is the way to move their companies forward. In the auto industry, it is essential to survival, but the people have to be provided with the opportunity to be the best they can be, and that has nothing to do with this labour legislation; you cannot legislate this. More traditional unions surely won't bring it about. Furthermore, you can't mandate jobs.



1150

There is no guarantee of success in the world, but creating an environment that allows plants to thrive provides the best chance. Plants don't close if they are striving to be the best and producing a truly world-class product and reducing costs to world levels; and that is the best for people.

In earlier presentations to the Minister of Labour, I gave examples of companies which have (1) stopped an investment in Ontario, such as Hayes-Dana Inc, (2) invested outside of Ontario work which would normally have been placed here, such as Long Manufacturing and Seeburn Metal Products, and (3) companies which would not make further investments in Ontario due to the negative business climate making it too difficult to run a business competitively compared to that in competing jurisdictions, such as Peerless Cascade, Prince Metal Products and Falcon Tool and Die. Many others have contingency plans or are evaluating alternative plans to assure their survival, even if this would mean having to move business out of Ontario, even though this is not what they want to do.

If this bill, as it stands, becomes law, we will see further reduced investments in Ontario. This translates into fewer jobs and results in a lower standard of living for all of us. But particularly hard hit will be those with the fewest options, women, minorities and the disfranchised. They are always hurt the most when jobs are lost. If we wait for the statistics to prove this, it will be too late.

We believe the current Labour Relations Act may need revisions. Our preferred solution is to drop this bill and to bring the workplace parties together, along with government, with a mandate to develop a consensus on workplace changes and to target priorities that are beneficial for all and supportable in a globally competitive environment. We must move forward competitively into the next decade and beyond with progressive relationships.

The government of Ontario has an opportunity that has never existed before; this government has the trust of the union leadership. As such, this government would be able to bring labour and management together to discuss improved relations and workplace issues never before achievable. This could lead to improved competitiveness of Ontario industry, a stronger economy and improved quality of life for all Ontarians. Business is ready and willing to participate in this process. The opportunity should not be missed in favour of a bill that is so limited in whom it serves and in what it can achieve. Thank you for this opportunity to make this presentation, and we'd be pleased to answer any questions.

**Mr Carr:** Thank you very much for your presentation. I was interested in some of the companies on pages 16 and 17, in particular the gentleman from Hayes-Dana, Mr Datilo. I was interested if you could maybe explain how much investment we've lost, specifically with yourself as well as some of the others, Long and the ones listed here. How much are we looking at? What was the factor in deciding not to invest because of this bill?

**Mr Tom Datilo:** Neil can talk about Long better than I can, but as far as Hayes-Dana goes, within the last several

years, we started a new facility in Ontario and went forward with two of the three anticipated stages of that facility. Stage 3 was in the planning stage to go forward when this legislation was introduced.

In our minds, it was another example of the increasing difficulty of doing business in the province, and we felt that before we went forward with that third stage in the plant, we would understand exactly what this legislation was going to do, whether it was going to be passed and how it made it more difficult for us to compete in the world. That was an investment that would be in the neighbourhood of \$5 million to \$10 million.

**Mr Carr:** Overall, looking at some of the companies we're looking at here, the problem is that many of them don't want to come out—I must say it's good that you do that—because unfortunately, you don't like to scare employees; nobody likes to do that. Looking at these companies you've listed, how many jobs do you think could be in jeopardy and what would the total amount of the investment be? Any ballpark figures?

**Mr De Koker:** It would not make much sense to just add up those companies and only refer to them, because they are relatively small. In the case of Long Manufacturing, Bill Nusbaum, the president, has indicated that about 200 jobs were involved and the decision was made to invest in the United States. This is a Canadian company where all its investments and its activities had been in Canada. They felt that this was just the last straw, that they could not operate and be assured of being able to deliver product to their customers on a just-in-time basis. They felt they had to make the decision to locate this in the United States. Subsequent to that, they have done an additional joint venture, in the last couple of months, with a US partner, with the facility located in the US.

This is a trend. When 80% of our business is in the US, you can see that it is easy in our business to justify moving closer to your customer. When 80% of our business has been here, it proves that we are competitive, that we are good. Let's not lose that edge. That's what we're losing.

**Ms Murdock:** In the same vein, because I do want to get into the just-in-time question, we have companies like Keep-Rite, which does industrial equipment and manufacturing, opting to close the Red Bud plant in Illinois and open up here, in Brantford, where employees are expected to double over the next three to four years. So just as many examples as you can come up with, I'm sure that there are equally as many proving that there is confidence in investing in Ontario.

But I want to get to the just-in-time question because you're one of the few, other than the one who just appeared before you, to have talked about it to any great length. How long have you been using that method, number one? And number two, then, given that some of your operations are unionized and some aren't, how has that worked, and have any plants or whatever closed down because of the just-in-time provisions due to a strike?

**Mr De Koker:** During the last half of the 1980s when the just-in-time concepts and lean manufacturing and so forth started expanding very, very rapidly. Some

plants, very progressive ones, were involved in the early 1980s. Today, a vast majority of companies have to operate on that basis. An example of shutdowns would be last fall, when we had the trucker blockade in Windsor and 500 truckers were able to shut down the automotive industry, or portions of it, which cost thousands of jobs temporarily and millions of dollars permanently lost.

**Ms Murdock:** That wasn't a strike situation, though.

**Mr De Koker:** It wasn't a strike situation, but it was an impact of just-in-time.

**Ms Murdock:** Yes, I understand.

**Mr De Koker:** You were asking about just-in-time.

**Ms Murdock:** But I want to know how the strike and replacement worker provisions of this piece of legislation will affect that.

**Mr Datilo:** We have just-in-time; every one of our 20 plants is basically a just-in-time operation. With the plants that are unionized, our customer requires us to have two months of inventory when we go into a negotiation, so that in the event there is a strike, there are two months of inventory that can be delivered to it.

Two problems with that, unfortunately: If there is a strike, it's very difficult to get it out; number two, it's tremendously expensive to put your money in two months of inventory. What typically happens, if you settle the strike, is that everybody comes back and you have to lay them off for six weeks to burn up the inventory. So it's not just the strike; it's the anticipation of the strike which ends up costing the company a lot of money and people jobs for some period of time.

**Ms Murdock:** You are operating under that present system now?

**Mr Datilo:** Yes, we are.

**Mr Offer:** Thank you for your presentation. I guess I too want to carry on in the line of questioning, certainly in the area of just-in-time. But before going into that, on the issue that you brought forward, the consolidation of bargaining units, you may be very interested to know that the point you've made is one which was made just this morning by unions, smaller unions concerned that the rights of

their workers within their particular unit may be submersed with a consolidation with a larger union. They have concerns about that and they have concerns about what that means when there are conflicting collective agreements. How does the board decide? So you're not alone in that concern.

Just-in-time basis—and I know we are very short of time—I want to look not 1992 backwards, but 1992 forwards. It seems to me that the just-in-time issue is going to become more severe and more definite. The time is going to become narrowed as we move forward through technology and what not. I'm wondering if you can share with us what we should be aware of for the future. Where is this all going? In this regard, I guess a lot of us always thought of a just-in-time supplier as a supplier in Ontario supplying to a car manufacturer in Ontario. The point you are making here is that 80% of the supplies are going to the States. How does that bode for the future?

**Mr Gary Ferlecki:** What I see happening in the future and what's currently happening today is that if you have an interruption of supply and you're unable to supply the automotive companies with the parts in time, that business will be taken away from you and it will be placed elsewhere. It will not, in all probability, be placed in the same jurisdiction. It will be moved outside Ontario.

We've had tremendous fights within our own company on being rationalized, to get off those rationalization lists and to get back in the flow of things where we can have inquiries generated to capture new business. We've had jobs taken right out of our plant and moved to the US to another supplier which is producing the same part, and have not had the opportunity to quote on that business. It was just a decision that was made: Move it to the US, period. That's the reality of life and that's what's happening today.

**The Vice-Chair (Mr Bob Huget):** I'd like to thank your association for making its views available to the committee and thank each of you for taking the time to come down and appear before us this morning. We will resume at 1:30 pm with the Guelph Chamber of Commerce.

The committee recessed at 1202.



## AFTERNOON SITTING

The committee resumed at 1330.

## GUELPH CHAMBER OF COMMERCE

**The Chair:** It's 1:30. We're ready to resume. The first group this afternoon is representatives of the Guelph Chamber of Commerce. Gentlemen, please tell us your names, your titles, if any, with that organization, and proceed with your submissions. Please try to save the last 15 minutes of the half-hour for dialogue and questions, assuming there are people to put those questions to you and to dialogue with.

**Mr Robert Green:** My name is Robert J. Green, president of the Guelph Chamber of Commerce. With me is Robert Richardson, who is co-chair of our labour reform committee.

I'd like to thank the committee for allowing us to make our presentation today. Our group has been involved in the very lengthy process of studying the legislation from its beginnings until today. In my 10-year involvement with the chamber, I can't recall a topic that garnered more interest or polarized more of our members, from all walks of life, in opposition to this document.

The concerns I feel can be filtered down into four main areas. They are:

1. Individual rights and freedoms. This bill, if passed, will clearly restrict and/or eliminate the rights that individual employees currently enjoy regarding union membership and the freedom to pursue an economic livelihood.

2. This document is predominantly an instrument designed to foster the growth of big unions, with a lesser concern for individual members and their personal economic futures. It does little to encourage and stimulate entrepreneurial spirit, which the Ontario economy at this point in time so desperately needs.

3. The Guelph Chamber of Commerce is very concerned that this document has very little substance to support the spirit of its preamble. The reality of today's world economy is that it's in a massive transition from the industrial age to the information age. The old structure of employer-employee relationships quite simply no longer exists. The new reality dictated by this massive economic transition is that the survivors will have built an economic base based on partnerships of equals that tear down old walls of mistrust and build new foundations of cooperation which result in a win-win economic relationship.

The legislation may have been appropriate for the 1950s; nothing could be more inappropriate for the 1990s. It serves to stimulate and raise confrontational relationships, which perpetuate the old belief that someone must lose in order for someone to win.

4. Business investment in Ontario will be greatly curtailed or eliminated due to the perception of investors, resident and foreign, that the very existence of this legislation indicates the current government's understanding of the new realities in the world economy. Investment dollars, and consequently jobs, will flow to geographic areas that investors perceive to be more friendly towards business.

This dawning of the information age shrinks the world and was made very evident in an article recently in the press where a Mississauga firm was having boots manufactured at a Newfoundland manufacturing site while a significant level of the administration, including CAD software product design and manufacturing processing management, was done in Mississauga. The article concluded that the communication links were so good that everyone felt they were working in the same facility. Five years ago, this simply would not have been possible; consequently, those jobs would not have been lost from Ontario. This proposed legislation, if passed, will encourage manufacturers to pursue this level of business activity nationally and internationally.

I'd like to conclude my remarks by highly recommending that this committee report back to the Legislature and the government with a strong suggestion that this proposed legislation be rethought and that a new process be established to bring together representatives from every economic element within the province of Ontario. This group would develop a document that has the substance to more clearly reflect the spirit of this proposed legislation while taking into consideration the new realities of the world's economy and the new business partnerships that must be formed in order for the residents of Ontario to simply maintain their standard of living. Now I'd like to call on Bob to make his presentation.

**Mr Robert Richardson:** Bob Richardson is my name. I'm the manufacturing manager for a company called Armtec, headquartered in Guelph, Ontario. We operate plants coast to coast in this country. About half of those plants are unionized; 50%, of course, are not unionized, so we get a flavour from seeing both sides of it. We want to share some concerns today with you.

As the famed boxer James Corbett once said, "Fight one more round." The person who fights one more round is never defeated. We are here to fight one more round.

As though the current economic conditions, severe competition, increased workers' compensation, transfer of health costs to employers, substantial increases from Ontario Hydro and increased taxation at every level aren't enough, the NDP government is determined to cripple business further with the introduction of radical labour reform, Bill 40. It is called labour reform, and this act is responding to the changing workforce, which includes women, minorities and part-time workers.

The main purpose of this act is to expand unionization in the province of Ontario. Once Bill 40 is enacted, employees in many business sectors can expect to be approached by unions who will promise job security, better wages, improved benefits and better working conditions. Employers are expected to pay for this and at the same time stay competitive.

The Minister of Labour states, "Employee involvement through trade unions can have a strong positive effect on both productivity and job satisfaction and can play a major role in the development of increased work cooperation."



Since when did introducing a union improve productivity and work cooperation? The opposite happens as seniority rights and lines of progression destroy flexibility in the workplace.

Jobs, pride, performance and mutual respect between an employee and employer cannot be legislated. The ultimate guarantee of job security and good wages is tied to the economic health of society, not to whether you belong to a union. Political ideology is meaningless if people are unemployed and the economy is staggering under the weight of society's debt.

Investment dollars will not come to Ontario if we are perceived to be an unfriendly place to do business. Employers who are threatened or held ransom by union negotiators may have no choice but to relocate if they wish to stay competitive or secure supply to their customers.

Employees lose individual rights with the introduction of Bill 40, as do employers.

The certification process has been simplified and the power of the labour board expanded, which paves the way for union expansion. Bill 40 allows unions to conduct organizing campaigns at the entrances and exits to workplaces, including shopping malls.

Currently, petitions opposing unions may be presented by employees to the labour board during the certification process. Bill 40 will remove this right. If 55% of employees sign a card, then certification is automatic; the 45% who may not wish to join a union have no choice. Once an employee has signed a card, he cannot change his mind. Employees may regret signing a card if they were influenced by peer pressure or intimidation during a sign-up rally. Under Bill 40, employees will lose their right to withdraw their name.

The current law has no restriction on the right of employers to hire replacement workers during a strike. Bill 40 places severe restrictions on the use of replacement workers. The striking or locked-out employees cannot voluntarily return to work until the union decides to end the work stoppage.

We have attempted to provide constructive and rational input into the public policy process on behalf of Ontario's business community. We have been turned down based on the fact that we are a special interest group. Yes, we are a special interest group: We are concerned about the future of this country, the future of this province and about providing a future for our employees; we are concerned about staying competitive and providing a high level of customer service; we are concerned when we see the government bend over backwards in support of unions while it ignores the reality of today's business climate.

I'm going to share some overheads with you, and I hope you can all see them from where you're sitting.

Labour employment standards is a branch of the Ministry of Labour which establishes legislation governing the minimum standards to be followed by employers for the protection of employees. Each province establishes its own laws governing such areas as vacation with pay, statutory holidays, minimum wage, termination, hours of work, maternity and other leaves, payment of wages and records retention.

1340

Company policies and union contracts which establish more favourable provisions will prevail over the legislated requirements. Labour standards apply to full-time, part-time and student employees. Employees currently are protected.

Employee rights are impacted with Bill 40. No petitions are allowed after the union files certification application with the labour board. There is automatic certification if 55% sign cards; the other 45%, as I said previously, have no choice.

The union determines if part-time employees shall be placed in combined unit with full-time employees. Part-time employees often have different priorities.

Employees lose their freedom of choice to work during a strike, even if they feel the union is being unreasonable or they cannot afford to strike. Employees must obey a union strike call. The unions are removing, rather than protecting, employee rights, for which the Ministry of Labour standards are intended in this province.

The fact sheet I'm putting in front of you is a negotiation that took place about one month ago with myself and the union. They have asked to be called plant X because we want to respect their future negotiating rights in this province, so they will be unnamed. I hope that's okay with you.

We acquired this plant through a merger back in 1983. This plant is unionized and was unionized at that time. There are seven companies that belong to the same local in this particular location. The contract agreement is for all seven companies.

If the union calls for a strike, then our employees must decide if they will support the strike or wish to continue to work. Contract language and job classifications do not apply to our type of business. We have ignored this in the past, but we must face that in today's market conditions. The reason for that is that they are really a trade union, and we're trying to run a specific manufacturing operation out of this plant.

The machine operator who operates a particular machine in Guelph makes \$16.15 per hour, and at plant X it's currently \$18.47 an hour. Due to the lower cost of production in Guelph and the deregulated freight rate, we can ship product to plant X economically. If we were making a business decision today in terms of looking after our competitive position in the marketplace, we should probably close that plant down and make the business decision. We don't really want to do that, because it does impact a number of employees. We want to retain a plant in this geographical location, but we must remain competitive. Due to the competitive market conditions and pressures that we face to be a low-cost producer, in order to retain a market share and customer base, we simply can't allow our costs to increase.

Our strategy going into this negotiation meeting was to freeze the contract for a one-year period and review the situation in 1993. We have made a request to negotiate separately on behalf of our employees. This request was granted by the union. Previously, the negotiation took place for all seven companies, as I mentioned above. We

are prepared to take a firm stand to keep this plant operating as a viable operation, and that firm stand, as I mentioned, means a complete freeze for the 1992 contract.

Let's look at the union strategy. Remember that we are one of seven companies in this local. If the union agrees to freeze our company, that will impact its ability to negotiate with others. That's why they want to be known as plant X currently. The union has requested a number of changes to the contract. The union may be forced to play hardball with us because of the above conditions.

This is what we were given going into the meetings, and this is really a wish list of the union:

Increase wages by \$1.50 per hour for the first year and \$1.50 for the second year in all classifications; increase probationary employee starting wage to \$9.50, and after completion of 600 hours increase to \$10.50; after completion of 1,600 hours from date of hire employee will be classified as production grade 3 at \$18.85, moving to grade 2 after another 1,000 hours of production at \$19.07, and on completion of 1,000 hours again going from production grade 2 to production grade 1 at \$19.54 per hour;

On overtime the request is to be paid at the rate of double time for all overtime, and increase shift premiums for second and third shift;

Increase the vacation pay from 8% to 10%, and add two holidays to the contract, one for the employee's birthday and one for Remembrance Day;

Have a small increase as it pertains to Bill 162, which was an employer contribution to offset this bill. Should this 3 cents per hour be insufficient, the request was that the employers agree to contribute extra moneys as needed.

What happens with Bill 40? The union requests a strike vote prior to negotiation, and in all negotiation meetings I've been involved in, they usually have the strike vote taken care of before they sit at the table with us. If 60% of those who vote are in favour of a strike, then the union has the power to call a strike. The majority, however, may not wish to strike.

The union calls for a strike in support of its future negotiations. Remember, they have seven companies involved in this thing, not just one. Our employees do not have the freedom of choice to support or not to support the union call for a strike. Our plant closes and we supply from Guelph or another plant location. We are not allowed to hire replacement workers. We have options because we operate both union and non-union plants across Canada. We have several locations to ship from; therefore, we can and will protect our marketplace.

However, the owner-operator of a small single location will be forced to negotiate a settlement with the union or close the plant. A small business can rapidly face bankruptcy when this happens. Employees lose their jobs, but the employer may lose his life savings and perhaps investment. The owners cannot win. If they yield to the union demands they will not be competitive; if they don't, the union will call for a strike and shut them down. So what do they do?

Under those conditions I've given you here, I would ask the question: How many of you think that plant is open today? Let's see a show of hands. Under the conditions I

gave, all the union requests and us going for a 100% freeze, how many of you think that plant remains open today?

**The Chair:** Far be it for me to tell you how to do your presentation. You've got 10 minutes left in your half-hour, though, and if you want time for questions and exchanges—

**Mr Richardson:** Okay. The plant does remain open, because we requested a vote from the employees. The employees voted in favour of working.

The conclusions and recommendations we have for you:

We recommend that a secret ballot vote be enshrined in the certification process so that the employees' true wishes can be determined. The secret ballot could become automatic once 40% of the employees have signed cards. No certification or decertification should occur without a secret ballot vote.

We recommend that employees be allowed freedom of choice to support or not to support the union's call for a strike. We recommend that the employer's last offer be put to a vote and that the majority of the employees must vote in favour of a strike.

We recommend that the rights of the part-time workers be respected. Part-time employees should have the freedom to combine with full-time employees if the majority of part-time workers are in favour.

We recommend that employers be allowed to hire replacement workers during a strike. The use of replacement workers can mean the difference between survival and bankruptcy in a small business.

We recommend that an economic impact analysis be done prior to proceeding with the legislation.

We recommend that the government appoint a tripartite task force consisting of labour, management and government with a mandate to reach consensus on how the Ontario labour law should be revised. If this cannot be achieved, then how can we expect to have cooperation between management and labour in the workplace?

1350

**The Chair:** Thank you, sir. Mr Fletcher, three minutes, please.

**Mr Derek Fletcher (Guelph):** Thank you for your presentation. Quite a few things, and I do have quite a few things: first, when I was negotiating for unions, at no time did I ever go into negotiations, into bargaining, with a strike vote. The strike vote was always called after negotiations had been going on for quite some time, and when I negotiated for Wellington county school board as its chief negotiator, at no time did any of its unions come into negotiations having taken a strike vote. I don't think it's as common as everyone is saying.

The 55% automatic certification has always been there; it's been there for years and years, long before this legislation was even thought of, and I hope you're ready to fight one more round.

The Guelph labour council, as far as I'm concerned, one of the more progressive labour councils and one of the more progressive chambers of commerce, because I



remember when I was with the labour council we worked with the chamber on quite a few projects, not always agreeing and not always disagreeing, but the focus groups and the education committee as far as some of the things that were going on.

I remember in 1989, when the Occupational Health and Safety Act was being amended so that workers would have the right to shut down unsafe workplaces, there was a hue and cry from the chamber that this was tipping the balance of power in favour of the unions, that workers would indiscriminately start shutting down workplaces. I'm asking you, to your knowledge, has that ever happened in the city of Guelph, where workplaces have been indiscriminately shut down because of this power?

**Mr Green:** I hope they wouldn't have to. I assume that the places are safe without having to shut down.

**Mr Fletcher:** Right, but the workers did not abuse anything.

**Mr Green:** Is that a fact?

**Mr Fletcher:** As far as I know, yes, it's never been done.

**Mr Green:** So you don't know that.

**Mr Fletcher:** But the perception was from the chamber at that time that this was tilting the balance of power in favour of workers, of unions.

You said that this government is moving along without regard for the business community, and yet I put to you the other side. With the North American free trade agreement moving along the way it is, there are many people who disagree with it but the business community at large agrees with it without looking at and listening to what the small person is saying, what the working people are saying. That government is moving along and not listening. It's a two-edged sword.

**Mr Green:** Derek, we can get into a discussion on the free trade agreement if you want.

**Mr Fletcher:** I know we can.

**Mr Green:** I don't think this is the mandate of this committee.

**Mr Fletcher:** No, but I'm just showing the similarities between—

**Mr Green:** The similarities are very distant. The reality with this documentation is that it tries to address an old topic. The world economy as we're looking at it demands—I'm not saying we shouldn't have a document, but let's not perpetuate something that already is ugly. Let's develop something that is more positive, that involves all of the people in the partnership.

At this point in time throwing up a confrontational wall—and let's not kid ourselves; there are going to be lots of them—will not develop the partnerships that are necessary for survival. We're talking about competitive survival here; we're not talking about having fun and getting a couple of pennies an hour for somebody. We're talking about a very, very competitive world economy, and we are becoming more competitive daily.

Simply, the reality is instead of maintaining our standard of living by increasing productivity, cooperation in re-

lationships, we are going to maintain our competitive position by people losing their standard of living. That's a very sad position for us to be in.

**Mr Fletcher:** And that's the flip side of it.

**Mr Hans Daigeler (Nepean):** One of the main arguments put forward by the government in introducing this particular bill has been the experience with violence on the picket lines. There is a feeling that this bill will eliminate this, at least for the most part. In the Guelph area, have you had much occasion of violence on the picket lines? Has that been the problem?

**Mr Richardson:** I would have perhaps a difficult time answering that in the Guelph area. I've been there since 1978 myself, transferred in with the company. I wouldn't say the Guelph area and the business community in Guelph has had what I would term a violent picket line. They've certainly had some long-term strikes that I'm familiar with, but not the type of violent behaviour patterns that you see in some of the stone-throwing or damage to vehicles and this sort of thing. I don't think it's been overly violent.

Derek, you might be able to answer that better. You've been involved.

**Mr Fletcher:** No, there hasn't.

**Mr Daigeler:** So according to your experience, that is essentially—

**Mr Richardson:** I think I would want to answer it in this way. If you're talking violence on the picket line and you're talking about a severe type of violence that is perhaps illegal, then I'm wondering if labour legislation is the way to handle that in itself anyway. Perhaps that's a separate issue. It's more of a police action issue than it is a labour code issue.

**Mr Daigeler:** I'm mentioning this because the government has certainly used that as the main argument. They feel that this particular legislation will prevent this from happening in the future, but I share with you the questioning, first of all, as to whether that will happen and, second, it's really dealing with a problem that hasn't existed in most parts of Ontario.

**Mr Richardson:** I guess what we're trying to view is the reality of what that ban on workers means. If it means to small business persons that they are forced to go into bankruptcy—and I say that in a non-threatening way—just if that's the way it turns out to be, then of course it has solved the problem on the picket line in terms of violence. It solved the problem in many ways, but it's left a bigger problem in its place, and that's one of unemployed people. I think that's the concern I see in the business community.

**Mrs Witmer:** Thank you very much for your presentation. I very much appreciate, Mr Richardson, your own business story and the possible impact if Bill 40 were introduced on your business, the changes that there would be.

You might be interested to know that there was a union this morning, the Canadian Paperworkers Union, that agrees with you on some points. They did indicate that the process the government was using to introduce this legislation was

flawed—it did create a war instead of a win-win—and that the government really wasn't recognizing some of the new realities of the present-day world.

You've talked about the new cost to business and the fact that this bill's not going to guarantee job security. Certainly today we've heard from many people, particularly the automotive parts people, how jobs are being lost and investments are not being made in this province, and we're going to see more job loss. In order to protect jobs and make sure we don't lose any more, what parts of this legislation would you particularly ask this government to make major amendments to?

**Mr Richardson:** I would say the ones that were referred to in my presentation. I don't think we should take away the employee rights in terms of forming a petition against a certification process. If the rights of the employee, or of the majority of employees, after they think about it, are that they do not wish to belong to a union, I think those rights should be respected.

I think it's very dangerous to have an operation shut down and prevent volunteers or small business people from operating a business when they have no other options to both manufacture and/or distribute their product. I think that's most unfair. Those are some of the key issues.

**The Chair:** Thank you. I want to tell the Guelph Chamber of Commerce that we thank it for its interest and for its participation here this afternoon. I want to indicate that the visuals you provided are useful, and I especially thank the legislative broadcast, for whom that creates a modest challenge. None the less, they rose to it today, as they have on every other occasion, and that was broadcast along with the rest of your presentation.

**Mr Offer:** On a quick point of order, Mr Chair: Would it be possible that the visuals could be distributed to the members?

**Mr Richardson:** I have copies of the complete presentation.

**The Chair:** Good. They'll form part of the exhibit. Thank you, people, and take care. Have a good, safe trip back home.

1400

#### VERNON YORGASON

**The Chair:** The next participant is Professor Vernon Yorgason, professor of economic affairs at York University in Downsview. Please be seated. Tell us anything more you would like to about yourself but, more important, tell us what you want to tell us about Bill 40 and related matters.

**Dr Vernon Yorgason:** I'm not used to sitting down when I talk. I guess university professors and bagpipe players tend to like to keep moving for the same reason, basically, that a moving target is more reasonable.

I'm rather on the other side from the gentleman you've just heard, not simply because I am a humanist, I think, but because I've had about 35 jobs. I've been a member of five unions and two staff associations. I have perhaps over a dozen semi-skilled certifications. My experience has been rather different, I would imagine, from the individuals you've just listened to.

That this legislation is something I'm in favour of goes without saying. Managers currently don't have much experience working from the other side. As a result, they tend not to really understand the nature and quality of the work that they do, and they tend not to understand the basic structure of union activity. Typically, rules having to do with seniority tend to stream employees into areas where their declining physical capability as their seniority rises provides a means where they themselves can be more productive.

The last study I heard indicated that unionized shops tended to be on average 31% more productive than those that weren't. In part this is because those workers feel more secure; in part it is because of the substantial improvement in the dispute resolution system that comes with unions.

Managers don't really seem to understand, since they view their own particular contribution to their business as rather larger than lifelike, that in fact it is the workers who get the job done. If you look around you, consider what you observed on your way down to work this morning. All of this has been produced by somebody, not by a manager, by somebody with a hammer, by somebody with a saw, by somebody with very specific skills. Without these people, civilization as we enjoy it today simply would not be here. However beautifully a car is built, it's rather useless if its wheels don't hit the ground.

What I do find interesting about most businessmen is that while they can understand the possibility that people should pay for their product what the product is worth, they seem to view the fact that when they hire people, they don't get what they pay for. If you push down wages, you tend to get a rather poor effort. If you increase workers' risk of losing jobs, you tend to get poorer effort. All of these generally result in lower productivity.

When I first read the discussion paper from the Ministry of Labour, I was of the impression that it was part of a social manifesto. The bill, as I read it, tends to represent something less. Unlike many of your correspondents, I have been unable to show that it is of monumental significance. I hope I'm not disappointing you in this regard. What my studies tend to indicate is that within five years an additional 5% to 7% of the labour force will be unionized, this primarily in the retail sector.

The length and severity of strikes will probably be diminished perhaps by as much as a third. Prices of goods and services will be marginally 1% to 2% higher as a result, but social costs borne by our social fabric will tend to be somewhat less, perhaps by 2% to 3%.

I found it impossible to separate out the influence of this legislation among the myriad of factors that affect employment, but in so far as I could tell, it's not going to have a great deal of effect on the employment level. In fact the probability of its improving employment is as great as its reducing the number of jobs, in large part because unionized labour is more productive. We have quite definitive studies which tend to indicate this.

What concerns me more than anything else is the rather hysterical response that we get from businesses in regard to such legislation. As far as I can tell, its impact is



not going to be earth-shaking. What seems to me is that what we face rather than rational thought is ideology.

I consider the situation that business has found itself in over the past 30 years. We have a substantial proportional reduction in income and other taxes paid, considerable setup subsidies, a lax application of environmental laws and regulations, a limited and declining educational and training cost and a vastly inflated role in the halls of power. It's thus been able to shift many of its private costs into the social arena. It now perceives that its privileged position is being eroded. That this should be the case is, to me, undeniable. It's failed to create virtually any new jobs. It's carried out little new investment. Its competitive position relative to the rest of the world has slipped markedly.

My experience as a worker in the factories that I have worked in, and these are fairly recent, up to May of last year for example, I find the principal barrier to increasing productivity the managers, who simply refuse to listen to the veteran, the trained worker, and prefer to listen to the presumably educated manager and engineer. This doesn't strike me as a useful sort of activity.

Secondly, business have over the past three decades come to see themselves as an élite. In part this is because they have substantial formal education. The election of an NDP government shook them to the core. What we've seen are the drawing of class lines in our society more deeply than I've seen them in my memory.

As I look over history, the 1920s were rather an unhappy period; certainly the early part of the 1930s as well, and then of course I was born and the world went to hell. None the less, when I started in a factory over 35 years ago, management listened to me. I was an apprentice tire builder. They listened to me. They took into account my suggestions. They changed the workplace so that I could make myself more productive. They don't listen to me any more.

As a mill operator in Goodyear in Bowmanville, I made a number of suggestions in regard to the machines I was working on. An engineer who walked by me three times a month largely ignored me. My first job as a college graduate was as an engineer. I've worked in this area on and off all my life. I have several advanced degrees.

However, the fact that I was taking 50,000 batches a year off that machine didn't give me any element of expertise. I find it interesting because contracts were lost because they didn't take up my suggestions, and in fact some of those suggestions had to do with the basic safety of the machine.

If you've ever worked on a mill, perhaps you might be interested in it: two whirling drums about three feet in diameter working together, mixed rubber coming down at 400 degrees, and your nose is about two inches from it. You make a mistake and you're a quarter of an inch thick. I don't know anybody who worked on that particular machine for any period of time who wasn't injured as a result. I was injured slightly myself several times.

Because they wouldn't take my suggestions, I quit, not in a fit of pique, but simply because that job was dangerous. I've worked alone a great deal of my life. I've learned to be careful. I've never been seriously injured. A careful

workman isn't. But I don't see much in the way, even in large companies, of a commitment to the safety of the worker. It's "get the job done," period. If you get hurt, after you and several other people get hurt, maybe something will be done.

1410

In part, I think a lot of the problem exists in our society because people seem to associate intelligence with formal education. By my estimate, most of the workers I worked with were somewhat more intelligent than the plant managers. Their decisions were subject to mirth usually. The fact that a person does not have formal education does not affect his intelligence or his capability or his willingness and ability to contribute to the quality of the work that is being done. In fact, in my observation, the principal problem, as I said before, was the manager, not the worker.

This isn't to say that unions don't have their problems. The principal problem that I do see is an expenditure of time and money protecting the jobs of indifferent workers, workers the rank and file really don't appreciate having around because their lack of effort reflects on everybody else.

My principal problem with the legislation as it is set up is that it tends to concentrate more on the relationship between businessmen and unions without considering the activities that carry on within the unions themselves. This is probably where productivity and human rights can be improved and where this legislation, if it is going to have any effect, will live or die.

I don't see many changes in regard to the activities of the Ontario Labour Relations Board. A person who does have problems with his union finds himself rather at a loss when he has to go to the labour relations board. For one, a grievance which may be of some substantive note tends to be sidetracked into a question of procedure. Some of these grievances are of some consequence. Unions may delay and delay violations of collective agreements in regard to these things that don't appear to impinge on anybody's consciousness, even when such delays cause physical injury and death.

I have one grievance with York University that hasn't been resolved and that in fact the union indicated it would not be sending on to arbitration. This grievance is 52 months old. I'm not aware of any element of our legal system that allows such a delay, but the delay is allowed by the labour relations board without penalty. I don't imagine that the substance of the grievance will ever be heard.

However, the embattled employee dealing with his union and the labour relations board finds he has to hire a lawyer. Our labour relations board feels that it must provide employment for indigent litigators, I guess; lawyers need work as well.

I think some very serious changes need to take place in that particular organization for no other reason, and there are perhaps many, than that an intelligent, informed individual should not face laws which are so complex that he cannot represent himself. If they are, it is a violation of the basic elements of democracy. A person should, without prejudice, be able to stand up, adhere to an understandable

set of rules and regulations and present his own case. This does not appear to be the case.

Despite the lofty objectives noted by the government's social and economic agenda—a change of pace—Ontario's success in the foreseeable future does depend on its current business managers and their ability and willingness to properly utilize their current labour force. I personally can't see much change occurring. Canadian managers, in my experience, are rarely willing to share their authority over the production process with a common worker, no matter how intelligent or able he is, even though the ultimate success of our society may depend on it.

It may be useful to note again that a considerable part of this problem is simple educational snobbery. Again, all too many people seem to think that formal education imbues them with godlike skills. I've taken 120 university courses. People typically take 60 to get a PhD. It took me two years to get a PhD. It took me three years to learn how to run a combine. It took me a year and a half to learn how to run a mill.

Education and training in this province is a very considerable problem. When I look at the increasing educational budget and the diminishing competitive status of Ontario's economy, I am led to the belief that perhaps education should be put back into the workplace from whence it came, that in fact there are some very serious problems with our formal educational system. Please note that my background is science and engineering, so of course I operate from some considerable bias. None the less, I think we are facing some very serious problems.

That business does not operate with the idea that Ontario is important and that its workers are important goes almost without saying. The high incidence of unemployment in our economy is only partially related to recession. It's only partially related to the free trade agreement. It seems to me to be related more to the movement of jobs outside. The fact is, if you push down on the wages of workers, you may well reduce the cost of the product that you produce but you also significantly reduce the capacity of people to buy it. Macroeconomics is unequivocal: What goes around comes around. We find generally that areas of high demand tend to be characterized by workers who are highly trained, highly educated, highly motivated and highly paid.

Anybody who is a student of history would realize that the 1920s was an era of declining real wages. One of the primary theories that explains the Great Depression is one of underconsumption, that in fact the demand for the goods that were being produced simply wasn't there because the wages weren't there. We can demonstrate this empirically, and have quite readily been able to do so since Sidney Greenhalgh's work in 1935.

In conclusion, I find it hard to believe—another change of pace—that Canada's lot will improve so long as promotion and advancement depend on who one knows rather than what he can do. It was my experience as a young man that diligence and hard work used to bring promotion and advancement. Now, more often than not, it just results in the expectation of greater diligence and more hard work.

This sort of environment is not conducive to higher levels of productivity and a higher level of income for all of us.

In conclusion, I would like to commend those people who put the bill together. I think it's a first step. I do, however, believe that closer cooperation between workers and management will very significantly improve our productivity. It is what is occurring in all the subsidiaries of Goodyear that I visited in the United States. It simply hasn't happened here because Canadians don't cooperate in that particular manner.

I believe it is time that workers and employers, and government as well, realize that we are all in this together, that we're all partners here and that hysterical reactions to the things that will probably not have a great effect are not very useful and in fact have a negative rather than positive connotation. I'm not much of a backer of puerile self-interest, and I believe this is what much of our business community is in fact putting forward.

1420

**Mr Offer:** Thank you for your presentation. I was listening intently to your characterization of the issue and though I might take some issue with you as to how it's characterized, because I think what we're hearing in this committee, though there are people coming before the committee adamantly opposed as well as adamantly in favour, there are a great many people who are saying, "We understand all that which is necessary for cooperation and we agree with this, but we have some concerns with the legislation."

It isn't just the business community that has those types of concerns. We're hearing concerns from municipal hydro services, from school boards, from children's aid societies, from municipalities themselves, independent grocers, all with a concern which I don't think would be fair, in my opinion, to characterize as being just purely business hysterics. I think it's people who are very concerned about individuals and about them being able to deal with their own responsibilities.

There is an area in the bill which deals with the way in which matters of grievance can be resolved for employees, and I know you've been involved in that type of area. It talks about expedited hearings. It's a matter which I brought up yesterday. It says that there is a hearing, it shall be called, and when it is called it shall be heard day in and day out until it is resolved. It sounds like that would be very good for the employees, and my question is really from that angle.

I have a concern that when there is no discretion, when there is no flexibility in that procedure, that if there is some occurrence which happens that would make it impossible for an employee to get to the hearing, that far from their rights being enhanced their rights would be significantly reduced. I'm wondering if you could just share with us your thoughts as to the expedited hearing without any possibility of flexibility if somebody can't make it.

**Dr Yorgason:** My impression of union activity in the plants where I have worked is that the dispute resolution mechanism currently works fairly well. I'm not aware, for example, in Goodyear in Bowmanville, of a dispute that



lasted over six months. Given a positive attitude on the part of both employer and worker, these things tend to be resolved in relatively short periods of time. Four years is not reasonable. Some flexibility surely is reasonable.

We are told by the courts that if you can't bring a person with a criminal problem up within 12 to 14 months then you are violating his human rights. We are told as well that if you can't bring a civil action within 20 to 24 months that justice delayed is justice denied. If you do set semifirm deadlines, then something gets done. Everything gets done just before the deadline. None the less, if you don't set deadlines, nothing happens.

How do we define "semifirm"? If there are impelling reasons why both employer and employee cannot meet on a particular day, who is greatly concerned? But how would you like to have to teach students for four years when your integrity had been impugned? If those problems were in fact correct, how would you then go back and repair all the damage you had done? How would you like to go back and work at a dangerous machine when fear itself is often as dangerous as the machine? Yet you have to go back and work there until the grievance is resolved. This gets deadly.

**Mrs Witmer:** Thank you very much for your presentation. You mentioned that business perhaps was overreacting and we wouldn't suffer some of the job loss and loss of job creation.

I'd like to indicate to you that this morning when the Automotive Parts Manufacturers' Association appeared, it gave us examples of companies that had stopped investment in Ontario, such as Hayes-Dana. They gave us examples of companies that were investing outside Ontario that would normally have invested here, such as Long Manufacturing and Seeburn Metal Products, and they gave us the names of companies that will not make further investments in Ontario due to the negative business climate making it too difficult to run a business competitively. They gave names such as Peerless Cascade, Prince Metal Products and Falcon Tool and Die. I would suggest to you that we will be losing those jobs in the future because of the uncertainty that's been created in the province.

You indicated that there was a need to bring people together in a partnership. But how can that happen when Buzz Hargrove, the new president of the Canadian Auto Workers, was quoted on July 27, 1992, in an issue of *Automotive News*, as saying he wants "no part of joint operating programs in which union and management work as a team to administer solutions to problems at plants"? You're saying here you were ignored by management, yet today, in 1992, we're hearing the president of the CAW saying he doesn't want people to work together anyway. How can you bring people together when there are these opposing and conflicting views? I think all of us sitting around this table believe there's a need for cooperation and partnership.

**The Chair:** You've got two questions there. I know the professor wants to answer both of them, the first one and then the second one. Let's give him some time.

**Dr Yorgason:** In this particular regard, I think you have to distinguish between location of business that might have occurred and that which actually occurred. There are very strict economic rules that do determine the location of business. In large part, they are transportation costs. If a business does not locate here, it is because of the nature of its business and its distance from its market. Scare tactics, might-have-beens, are not particularly relevant. The fact is, these things tend to come out in the wash. I think you will find that many of these companies that suggested they might locate here were just investigating. There was no firm commitment of any sort.

We should note that a number of companies that have located elsewhere are rather unhappy they did, because they located in areas where workers were less skilled and had a much less rigid commitment to work and, as a result, their productivity has seriously been affected.

In regard to the gentleman from the CAW, dinosaurs exist. We see them on television. They're funny. They are, however, still dinosaurs.

What we see in areas where productivity is expanding are cooperative efforts: among the Japanese, who, believe it or not, enjoy a productivity which is still considerably less than ours; and among American plants that tend to be very competitive in regard to competitive bidding within the subsidiaries of various companies. Workers' groups that are responsible for the whole operation of a shift, who show productivity considerably better than some of ours, I think have made pretty much a case for themselves.

The fact is, it's like education in many ways. God gives you a certain set of resources that you have to work with. Wishful thinking won't change those resources; you have to make the best use of the ones you have. If you set up a framework whereby that is ensured, then everybody benefits. If people don't wish to work with each other, you take off their clothes and heave them into a room for a while and let them work out their differences and out they come. If they are required to do so, they will do so.

1430

**Mr Ferguson:** Thank you very much, professor, for that sociological response to the bill. I don't think we've had that to date, so it's very insightful.

I just want to pick up on one of your comments. You said that some of the companies that have made a move in fact have been somewhat unhappy or have run into difficulties. I want to share with you that this morning the rubber association appeared before the committee. I was speaking to some of the delegates from that association out in the hall after the committee hearing, and they informed me that they took a plant in Texas and totally gutted the plant, took all the old equipment out of the plant and restocked it with the most advanced tire-building equipment in the world, and then brought the workers back. But what they didn't realize is that the workers they brought back were functionally illiterate and couldn't operate the machinery.

I think that really speaks to the skill and the quality of worker that is needed in order to sustain this value added economy. I'd like you to comment on that. How important

do you think it is that we develop and sustain a high-wage, value added economy? That's essentially what you're speaking to in your brief.

**Dr Yorgason:** Well, a high-wage, high value added economy begets an economic growth and development in its own right.

We did discover, even in the 1930s, that resources moving from one country or one part of a country to another did not tend to result in equalization of resource prices. If you take all the Okies from Oklahoma and send them to California, you would imagine that wages in Oklahoma would go up because there was so much less labour there. What we did find when they got to California is that there is a dynamics that exists in human settlements and among human beings themselves in their economic activity in which it feeds on itself: High wages result in high demand.

In regard to literacy, I'm not at all sure, beyond a basic fundamental level, that it is as important as it is set up to be. A significant portion of our young people simply do not react well to formal environments. In fact, I've been associated with the educational system for most of my life, yet I think the most productive and practical education I got was following my father around. The fact is that many of us learn by doing, not necessarily by reading. It's important in some instances, but it's by no means as important as many people have led you to believe: many university administrators and professors, who appreciate higher wages in their own right.

However, please note that this negative correlation between educational spending and increasing productivity seriously bothers me, because it would appear that it's vastly misdirected. The trouble with universities is that when you make more universities, they just clone themselves. There does not appear to be any large relationship between them and the solution of the problems the society they exist in needs.

**The Chair:** Professor Yorgason, I want to thank you on behalf of the committee for taking the time to come here and talk to us today. You have answered a number of questions that have been posed frequently since the beginning, at the very least, of these committee hearings, and we're grateful to you for that. You illustrate that there is a large number of people in our communities who are interested in and eager to help government achieve its goals. I express the gratitude of all of the committee for a most valuable presentation.

**Dr Yorgason:** Thank you very much.

#### CANADIAN INSTITUTE OF PUBLIC REAL ESTATE COMPANIES

**The Chair:** The next participant is the Canadian Institute of Public Real Estate Companies. Gentlemen, please seat yourselves in front of a microphone and tell us who you are, what your status is, if any, and whatever else you want to tell us about yourselves, but more important, in your submissions on Bill 40, try to save the last part of the half-hour for questions and exchange.

**Mr Ronald Daniel:** My name is Ronald Daniel and I'm the executive director of the Canadian Institute of Pub-

lic Real Estate Companies, which is more often known as CIPREC. With me is Ron Meiers of Cambridge Shopping Centres Ltd. He is the senior vice-president of that company and chief operating officer of the Cambridge shopping centre group. He's also the chairman of CIPREC's industry committee on labour legislation.

We're pleased to have this opportunity to speak directly to the committee. The Canadian Institute of Public Real Estate Companies is the primary voice for the Canadian real estate investment and development industry. It's 35 member firms include most of Canada's large development companies, and it has a total of \$60 billion in assets.

CIPREC members own and operate major shopping, office, residential and industrial complexes throughout Ontario and Canada. In 1990, and excluding income taxes, the CIPREC members paid over \$658 million in property-related taxes in Ontario. This was made up of \$500 million in municipal property taxes, \$58 million in lot levies and miscellaneous charges to Ontario municipalities, \$55 million in commercial concentration taxes and \$45 million in capital taxes to the province of Ontario. So we are significant participants in the commercial life of the province and a major source of funding to all three levels of government in the country.

We draw to the committee's attention, though, that the taxes paid in Ontario—that is, the property-related taxes I've just identified—have increased more than 50% in the last three years. That's one of the reasons you read in the press regularly that Toronto is the most expensive city in North America in which to do business. The major reason for that is the large share that property taxes have in the total rental cost of operating space.

For example, the average property tax in Toronto's financial district in 1990 was \$7.85 a square foot, in the suburbs \$3.71, in New York \$7.20, in Atlanta \$2.05, in Calgary \$2.14 and in Denver \$1.06. We have become an extremely costly city and jurisdiction and that pervades large parts of urban Ontario. One of our concerns is whether the impact of the package of proposals in Bill 40 will further increase these costs and make our industry further again less competitive.

We submitted a written submission to the committee and included our most recent annual report in which there's an article on the industry's concerns related to the escalating costs of doing business in urban Canada. It's not just Toronto; it's right across the country.

CIPREC believes that the proposals in Bill 40, if implemented, will increase the cost of doing business in Ontario. From the onset of the current recession in 1989, we advised all levels of government that the real estate development industry, and particularly the commercial segment of the office space and retail space areas, would not be the industry sector that would bring Ontario and Canada out of the recession in the way it did at the end of 1979 and 1982.

The commercial real estate development industry in Canada and Ontario is in a critical condition. We draw to your attention that if we're to have a healthy and sound Ontario and Canadian economy, we must have a healthy commercial real estate sector.



The real estate sector faces its current difficulties as a result of overbuilding in the late 1980s—the industry's own problem—the current recession and the rapid increase in property-related taxes. This industry is the underpinning of the Canadian financial system and must return to a profitable position with property values stabilized before further damage is inflicted on the total economy.

1440

My next remarks are not going to cause much joy among the 70,000 construction workers unemployed in Ontario at the present time. All new construction expenditures in the areas of residential, commercial, industrial, institutional and engineering in Ontario have dropped from over \$32 billion in 1990 to an estimated \$28.5 billion in 1992, a drop of 12.5%. New commercial building in Ontario, a segment in which the CIPREC members make their investments, has dropped from \$6.5 billion in 1990 to an estimated \$4.5 billion in 1992, a drop of over 30%.

Together with this drop in new investment, there's been, as you've undoubtedly noticed, a major restructuring of the retail sector and a trend that shows tenants moving from the city core to the suburbs, particularly in Metropolitan Toronto. Vacancy space for office space has climbed as high as 20% in 1992 and 1993, as commercial projects are completed. Most of them have a life of anywhere from two to four years, so that those that were started just before the recession are just now being completed. There will be no new starts until the vacancy level is brought down to more usual and acceptable levels.

The commercial building construction component of the total Ontario construction expenditures will not improve in 1992; it will remain flat. If there is to be any growth to be achieved at all, it must come from institutional and government sectors. As you all know, with the reduced flow of revenues to the government, there is little likelihood of additional major investment in this area.

The CIPREC members share the concerns expressed to you by other representatives of business during these hearings concerning Bill 40. The proposals contained in Bill 40 will have severe negative economic consequences arising from an anticipated reduction in new investment, with a consequent reduction in new jobs, a relocation of businesses to other parts of Canada and the US, causing job losses, and as I referred to in the last few minutes, there is the increased cost of doing business in Ontario and Canada, reducing our competitive edge.

Following the release of the document, Proposed Reform of the Ontario Labour Relations Act, in November 1991, business has endeavoured to have government establish a tripartite consultation forum of business, labour and government, to examine the impact of the proposed amendments on the much-needed new investment and job creation, the profitability and competitiveness of existing industry and business, and the need for the proposed changes to the Ontario existing labour relations policies in relation to the rapidly evolving world economy.

CIPREC members respectfully urge the resources development committee to recommend that Bill 40 be delayed until a full impact study of the proposed changes on investment, job loss and creation and the future competi-

tiveness of Ontario industry and business has been reviewed by the tripartite group.

That's our response in general to Bill 40 and the package of proposals. There are three specific issues that relate directly to the real estate development industry. CIPREC members, as well as other investors in the real estate development industry, are concerned with the efficient and profitable management of the products of their investments, generally space in the retail office and industrial sectors.

Three specific proposals that concern our industry—I'll just list them and then go back over them—are allowing security guards to join the union of their choice, access of organized labour to shopping centres and privately owned, publicly used space, and the protection of bargaining rights and collective agreements for cleaners and other service workers employed by a building owner or contractor when their work is transferred from one employer to another.

Dealing with the first one—security guards being allowed to join the union of their choice—in all of the premises managed and operated by CIPREC members, the maintenance of a pleasant and hassle-free environment for customers, employees and others is critical to the achievement of the owner's commercial objectives. Shopping centres, multi-use facilities and downtown office retail complexes, particularly those linked by retail walkways, require that users be able to move freely without fear of harassment and intimidation or injury.

Security guards are an essential component of the maintenance of that environment. Security guards in the major facilities are perceived more as customer relations personnel, ensuring that a relaxed environment conducive to shopping and other related retail and entertainment opportunities remains attractive. Permitting security guards to join the union of their choice would allow the option of joining the same union as custodial, cleaning and maintenance staff. A strike by that union would have the effect of leaving a facility without either cleaning or security personnel.

Since Bill 40 also removes the opportunity to bring in replacement staff, the entire facility could be without security for extended periods of time. This would be a completely unacceptable situation in major facilities such as regional shopping centres and downtown complexes, increasing the risk of exposure to injury, harassment and discomfort to the general public. We strongly urge that members of the resources development committee recommend the removal of this proposal from Bill 40.

Access of organized labour to shopping centres and privately owned and publicly used space: In October 1991, CIPREC commissioned a public opinion survey by Environments Research on public access to privately owned, publicly used facilities including shopping centres and office space, but the type of space affected goes far beyond shopping centres and office space. It will include parks and conservation areas, fairs, exhibitions and amusement parks, community recreation facilities, arenas, stadiums and racetracks, public libraries and public art galleries, concert halls, dance and performance centres, theatres and

cinemas, pedestrian walkways, common areas or lobbies of transportation terminals and stations, hotels, shopping centres and plazas.

Also, under debate in another forum at this time, there's the possibility that schools, universities, hospitals, privately occupied premises such as shops on streets, office building lobbies and restaurants all would be affected by the recommendation and proposal in Bill 40.

The results of the CIPREC survey on access were made available in the fall of last year to the Premier and the Attorney General. The objective of the survey was to determine the public's attitude and concerns concerning the use of privately owned, publicly used space: Who should control access and to what extent, the reasons for the public visiting shopping centres, and the types of activities that should be allowed there? I have attached, as schedule 1 to the written brief that we have delivered, a full description of the results of the survey.

Here I'll just mention a few. The survey showed that 87% of the respondents view shopping centres as a place to shop, while only 10% considered they provided any other use. Respondents were concerned with questions of safety and crime when choosing a shopping place, when they were deciding whether to shop downtown or in the suburbs or go to a regional mall; 73% indicated that safety was the prime factor in making that decision, and 67% said protection from harassment by individuals or groups was very important.

On the question of what types of activities should be allowed, a large majority said that political gatherings, 77%, and religious gatherings, 79%, should not be allowed. I think they were referring not to the traditional religious groups like the Salvation Army, but more to the fringe religions that are now apparent on the streets. As well, 71% indicated unions organizing workers should not be allowed, nor demonstrations by special interest groups, 75%. I think if we were to do the survey the day of the result of the street incidents on Yonge Street and in urban centres generally the negative response for increased access for these sorts of activities would be higher today.

As stated in the paragraphs related to security guards and unions, the objective of the CIPREC members is to provide an environment in commercial facilities that is free from the risk of injury or crime and that allows invitees and customers to enjoy their shopping and entertainment hassle-free and without unwarranted and unwanted distraction and disturbance. In this manner the owner or the operator of the facility contains an environment conducive to achievement of the original commercial objective.

It is clear from the foregoing that providing organized labour access to privately owned, publicly used places such as shopping centres is not in the public interest. Further, without providing owner-operators with express powers in the legislation for controlling and regulating such activities, it will be difficult to guarantee an environment that is pleasant and presents a low risk of injury or crime while such organizing activities are taking place.

1450

The committee should recommend that this proposal be removed from Bill 40 until a tripartite group of labour,

business and government representatives has fully reviewed the need for such changes.

On the issue of protecting the bargaining rights and collective agreements of cleaners and other service workers employed by a building owner or contractor when their work is transferred from one employer to another, we consider this proposal an intrusion into the management process and an erosion of ownership rights. The proposal effectively limits management's ability to reduce costs through the introduction of new technology systems and policies. The proposal will effectively eliminate competitive bidding and pricing on labour contracts, consequently increasing operating costs and the cost of products and services to the customer.

It again refers to what I started out with in this presentation: our concern, which we're addressing to all three levels of government, the province, the municipalities and the federal government, that real estate taxes and other taxes related to real estate are out of sight and are continuing to grow, causing, we think, major harm to the total economy.

CIPREC requests that the committee remove this proposal concerning competitive bidding from Bill 40, since it represents a change that will contribute to a further increase in costs.

In closing, we urge that the committee insist that a full economic impact study of Bill 40 be carried out, and if necessary, we recommend that you commission your own study. I think the committee has a major opportunity to make a significant contribution to an improvement in the current climate of labour-management relations, which has become further exacerbated on both sides during the discussions on Bill 40. I thank you for the opportunity.

**The Vice-Chair:** Thank you very much. Questions? Mr Carr, two minutes.

**Mr Carr:** I appreciate the opportunity to ask you a few questions. I realize many members are facing severe pressures which we read about in the paper. Unfortunately, sometimes in the Report on Business, it's all too front and centre.

My question is regarding mall picketing. I don't think a lot of the public realize what it will mean until they actually go out and face it. Sometimes visuals are far more important than anything. I think back to the last campaign of the Labour Party in England and what was dredged up were old pictures of garbage piling up in the streets. I don't think people are going to realize the implications until they go out to a mall and can't get through because of the picketing.

Your statistics, if I got it right, said 75% of the public don't want unions picketing in malls. Is that what it was?

**Mr Daniel:** That's right.

**Mr Carr:** That was done in September 1991?

**Mr Daniel:** September 1991.

**Mr Carr:** Before there had been, with this bill, any highlight that this might be coming out.

**Mr Daniel:** It was done in a period between the swarming incidents and then the street riots earlier this year. We feel very comfortable that what we have is a



conservative reaction from the general public. They don't want to be hassled, not only by politicians, religious groups and unions, but by the animal rights movement and all the other interested groups that want to be in there because there are a lot of people there, but the people who are using the place don't want them.

**Mr Carr:** With the impact studies we've been asking for, the government has continually disregarded what has been put forward from other groups. My personal feeling is that the reason they aren't doing an impact study is that they're afraid to do one because they're afraid of the results. What's your feeling as to why the government won't do any impact studies on this legislation?

**Mr Daniel:** Frankly, I have no idea. They put their heads down and charged, I guess, and just wanted to get the legislation into the House. But I have no direct information with respect to that.

**Mr Ron Meiers:** I think there have been examples of labour problems in the country. I recall our own experience in our property, Les Rivières, in Trois Rivières, where we had 300 truckers pull into our parking lot, close up the shopping centre and sing solidarity songs in our mall for approximately six hours. I can tell you that it cleaned out the shopping centre in about 15 minutes and certainly scared most of the residents and consumers who were in the shopping centre.

It's not a case of trying scare tactics here or running hysterics. We've actually lived through these kinds of situations and, believe me, they're not pretty and they're not pleasant and I don't think they really serve the public well. After all, security and safety is the number one concern. In every consumer survey we've ever done, personal safety is the number one issue, and by allowing these kinds of groups and allowing these kinds of activities at the shopping centre, it just invariably leads to the wrong kind of activity happening in the shopping centre. We do not believe that a consuming public wants, needs or requires that kind of hassle when it comes in to do some purchasing in our shopping centre.

**Mr Klopp:** Thank you for your ideas and thoughts. It strikes me very much as a learning experience.

One comment about the study idea: I understand the ministry did try to get some information on this. Professor Meltz, I believe, from the University of Toronto came to the conclusion that you can't study this particular model because there are too many variables and it wouldn't be accurate. It wasn't, I believe, anybody sticking anybody in the sand. "You can ask people their opinions, but," he says, "I could ask them just the opposite question and get an opposite answer," and that's not scientific enough for studies.

You mentioned earlier in your preamble the tough economic times that we've seen, and there's no doubt. That's what got me involved in politics. As a farmer, I've seen real estate values go extremely high due to an idea of confidence that the land will go to \$5,000; buy it at \$2,000. As one who was trying to buy, I came into the operation when land was going to \$2,000: "Buy it. Keep going." It was a farm my dad started. I think it was worth \$5,000 for 150 acres, and the neighbour was asking \$300,000 for that

same farm the day I went in. Unfortunately, I couldn't buy it because economically it was crazy, not because the real estate person told me it's going to be \$5,000 in 20 years. It's only worth what I can afford to pay for it. I wish a lot of other people would have had used a bit more common sense. It ended up falling down in price due to the fact of confidence.

We had a worker in here. She came in the other day and she thought the bill would help to build confidence, because she said that she right now would like to buy a house, but she's worried about her job and she thought these changes to the act, because we already have a legislative process, would give her some confidence and probably she might buy a house, which I think in the real estate industry would help, and what we need is confidence, which would help.

You're in the mall business, and very quickly, we had the president of a clothing company here last night who actually told us—I don't think he mentioned your particular company. He mentioned some others. We can get Hansard. I don't want to mention names in case I name the wrong ones. He was actually saying that these changes to the act were what US investors were looking for and that they want to come up here.

I believe his son was in a few nights before representing another facet of their company, and he happened to mention that too. He actually said, "Don't put this legislation in place because US firms are looking for this because it'll give them an edge," and then the president of the company came in last night and he mentioned that again. He even went further to say that down in the United States he knows of malls that are going down to the States and offering great deals for US companies to get up here. I just want to know if you're aware of that. Why aren't they doing these same kind of deals for Canadians?

**Mr Meiers:** First of all, there is a problem in the retail industry. As you may or may not have noticed when you're walking through shopping centres, there's considerable vacancy today. There's been an extremely large number of retailers go out of the industry, and not by choice. Usually, it involved huge losses and loss of confidence with their bankers and those kinds of things. To that end, we are going to the US trying to entice healthy companies into coming to Canada, but at no better deals or rates than we're offering Canadian firms at this particular time.

If there ever was a time to start a retail chain, it's today. There's choice, there's opportunity and there are reduced prices and increased allowances. So it really isn't a case of choice that we're looking south of the border. If we had the retail community in a healthy mode in this particular country, then we'd be filling those spaces with Canadian firms. Those that are coming up are coming up by choice.

We are concerned about the competitive situation. We're not trying to be hysterical about it. We are concerned that this bill will increase the opportunity for US firms to gain more ground in terms of many of our industries and many of our manufacturing jobs that seem to go south because there are relaxed rules there. Today they're enjoying those kinds of things that'll make it even tougher, I would suspect.

1500

**Mr Klopp:** No, but he's saying they're looking for these labour rules as soon as they get in here.

**The Vice-Chair:** Excuse me, Mr Klopp. Could you conclude—

**Mr Meiers:** I can't see how that could be possible.

The one other issue of interest, I think, that deals with this competitive nature is the fact that in the last three years our operating costs, the ones we can control, have gone up by less than 2%, or beneath inflation. On our five-year projections and for about 10 years back, we have had 7% to 8% increases in our property taxes, and frankly our five-year projections from today are seeing them go up at the same kinds of rates. Those things are very concerning and very worrisome to this industry. We can't control them. They're like death and taxes: You can't control them.

**Mr Offer:** Thank you for your presentation. I want to address the issue of organizing and access on private property, but I was intrigued with Mr Klopp's question about the US companies coming up as a result of these. I think it would be fair to say that what was put forward was that because of these changes, US firms, which have more capital, can come up and if there is a labour disruption which involves a Canadian company, an Ontario company which has less capital, it will be out of business, and the US companies with more capital will be able to survive; hence this is the great attraction.

I'm not certain that I agree with Mr Klopp in saying this is the way to go. However, the question that I have is, when we take a look at the legislation on access and organizing, it doesn't just apply to malls. I think the press releases say that it is for the malls—the industrial mall, the retail mall—but it has a much broader application. We have heard people come before us—undisputed, by the way—who say, for instance, that within a department store which licensed particular aspects of the store, either cafeteria or travel agencies or things of this nature, these provisions would allow picketing within the store in front of—I'll use the example of a cafeteria.

My question to you is this: Is that your understanding? How does that bode for people who would even want to be part of a mall that has a department store, and what protection is there for those stores in a mall that are not involved in this whatsoever, either in picketing or organizing, but might suffer in no small degree because of what's going on in another store within the mall?

**Mr Meiers:** That is exactly our fear and one of the reasons we would love to meet and work with a legislative committee in trying to put the proper wording and proper thought process into the picketing aspects. We're very concerned that it could create a major hardship. For example, if we had a food store, say, with striking and major confrontations going on, it could just devastate the remaining stores in the shopping centre because a lot of the people enter through those stores, see the activity going on in front of that store, and it would make it very difficult.

We don't disagree that there have to be some rules and some human rights out there for workers and for people

involved in unionized labour. That is not the case, that we want to just shut it down. But we also know the very reason people are coming to our commercial establishments is because they feel safe, feel that there's a sense of order, that there's a non-hassle, worry-free atmosphere in a shopping centre.

I certainly would not want my mother or someone close to me out in a shopping centre where there's a great bunch of hassle and shouting and confrontation going on. I can assure you that this would not give her a great comfort level. We don't have to have that kind of situation happening on our commercial property.

I worry just as much for a lot of the public buildings that enjoy similar kinds of—I go to a museum and I don't expect to be hassled and to see confrontations, or I go to a recreational facility and I take my children. I want free, easy access and I want a safe environment there. I don't believe that's a place to resolve labour differences.

I think the gentleman before us was right on the money when he said there has to be more and better communication between all groups involved in the labour equation. Frankly, I think what has to happen is much more dialogue between your group and private enterprise and worker groups—we're not trying to leave anyone out of this—to come up with better and more cooperative methods to work it through.

As far as I know, Japan doesn't have a union, and it has a very good working relationship within its organized labour groups. Frankly, I think we should learn a little more from them and have a little less of the confrontational patterns we've really enjoyed in the past, which unfortunately have not seemed to work.

**The Vice-Chair:** Thank you very much. On behalf of the committee, I'd like to thank the Canadian Institute of Public Real Estate Companies and each of you for presenting those views. Thank you very much for playing an important role in the process.

#### CAMBRIDGE CHAMBER OF COMMERCE

**The Vice-Chair:** The next group scheduled is the Cambridge Chamber of Commerce.

First of all, welcome. For the purposes of Hansard, if you could identify yourselves and then proceed with your presentation, you're allocated half an hour. If you could use approximately half of that half-hour for questions and answers from committee members, it will be appreciated.

**Mr Hugh Ferguson:** Mr Chairman, honourable members, ladies and gentlemen, my name is Hugh Ferguson. I represent the Cambridge Chamber of Commerce. With me today is Mr Gerald Martiniuk, the president of the Cambridge chamber.

I would like to say it's a pleasure to be here to express the views of the 850 members of our chamber. But, ladies and gentlemen, it's not, and I'll tell you why.

Last year, just about this time, I took the opportunity to study the Burkett committee reports, and shortly thereafter, the first draft of proposed amendments to the Labour Relations Act. I needed only to read the report filed by labour to have read the first draft of what was to become Bill 40. Since that time, it has become clear to many of us in the



business community that Bill 40 appears to be a done deal, and that the February consultations with the minister, and perhaps even these hearings, are the smoke and mirrors of a hidden agenda.

We are here, none the less, in the desperate hope that some of you folks may be listening. Former presidential hopeful Thomas Harkin said recently of the US job market: "The issue isn't jobs. Hell, slaves had jobs. The issue is long-lasting, secure, high-paying jobs."

What Senator Harkin said seems obvious, but I would like to tell you that it will only come by the joint participation of management and employees to create a socially and economically desirable marketplace for us all to live in. I say to you now that Bill 40 is not joint participation; Bill 40 is the legislating of an entire marketplace for the first time in Ontario history. Bill 40 gives the union movement a monopoly over Ontario's workforce and a stranglehold on Ontario business.

1510

Where are the checks and balances to protect individual rights over the legislated rights of a union? For example, under the certification process, given the extensive new markets and new powers open to unions, the legislation should mandate an open campaign so that a union seeking representation would (a) file a notice of organizing with the labour board and employer, (b) provide prospective members with copies of the union's constitution and bylaws and their rights therein, (c) provide prospective members with a written commitment of benefits that would accrue and what kind of track record they had in previous settlements, (d) advise each prospective member that, upon joining, a 48-hour cooling-off period is in effect, and (e) ensure that employee hear both sides of the issue.

These suggested provisions are not new or innovative. They are in fact contained in principle in the Consumer Protection Act of this province. I suggest to you that workers of this province have a right to protection against overzealous and unscrupulous people in every marketplace, including union organizers. An informed worker will make an informed decision. We ask you to let them try.

Let us look at the collective bargaining and contract administration sections of the act. The foundation of democracy in this country is the secret ballot. Legislate it for all ratification and strike votes, and mandate a cooling-off period where a strike vote is necessary following a defeated ratification vote. Create a provincial code of picket line conduct to discourage inappropriate behaviour where a strike is necessary. Set out specific penalties for violation of the code for all parties: employers, employees and the representative union. Make the code enforceable in law and have it administered by the courts, or at least some arbitration system similar to that proposed for employees terminated while engaging in lawful labour activity.

I suggest to you that these types of provisions, if enacted, would eliminate much of the violence, intimidation and vandalism so often evident in labour disputes.

Also conspicuous by its absence in the new act is any mention of union accountability. As with most business sectors, the costs of services provided by government

should be offset against union revenues in the form of a tax on union dues. Such a system could be twofold.

An annual registration fee per member could be levied to help finance the OLRB and the activities of the Ministry of Labour which directly subsidize the union movement. Further, a user-pay fee structure could be implemented where grievance mediation or a government arbitrator is necessary to settle a dispute. The fee could be paid jointly by both parties.

I suggest that such a system would promote cooperation and compromise on the part of both management and labour, which is one of the stated objectives of Bill 40.

In June of last year in a speech titled Building a Common Sense, Premier Bob Rae had this to say to the Premier's Council on the Economy and Quality of Life: "I am here to tell you that everyone's habits and attitude have to change. Everyone's. We have to go from a low-trust business where we all point fingers and all go home and say, 'My God, they are awful.' We have to move from that level of interaction in our society to one of high trust. It is in labour's interest to have businesses that are investing and creating jobs. It is business's interest to have a labour movement that is keenly involved and strongly committed to the health of the whole economy and that believes in it and is given a reason to believe it."

Ladies and gentlemen, Bill 40 is not a vehicle of trust. Bill 40 is not common sense.

This being the third presentation we've made on this issue, we've decided to stick directly to what's not in the act rather than what is in the act, but are prepared to answer questions, wherever they come from.

**Mr Ward:** I'd like to thank you for coming down today to give the Cambridge Chamber of Commerce's point of view as far as Bill 40 is concerned. When you look at how this proposed legislation has evolved, from the original Burkett commission to the discussion paper to Bill 40 and how changes have been made, I think you have to agree that there have been some changes.

The original Burkett commission and discussion paper suggested that supervisors should be allowed to organize. There was discussion around the access to employee lists and there was discussion around allowing union organizers on to company property for the purpose of organizing. In those three instances the business community, I think it's fair to say, had objections for one reason or another and the government listened. In Bill 40, supervisors are still exempt from being organized. There is no access to employers' property for the purpose of organizing, and there is no access to employee lists except as it is in today's act during the certification process when it's actually at the board. Are those not examples of the government listening, or did I miss something?

**Mr Hugh Ferguson:** I would have to say that for the business community or at least our members and the work we've done with them, most of those were minor in nature. All of the major issues that were brought forward out of the Burkett report are still entrenched. Most of the things you speak of are fairly minor when you consider the entire act as it presently stands.

**Mr Ward:** It's odd that you mention that, because when I met with the business communities in and around Brantford and across Ontario for that matter, those are three key concerns that were presented to me. So perhaps the Cambridge Chamber of Commerce had a different point of view. Do you agree that the workplace and workforce has changed since the 1970s?

**Mr Hugh Ferguson:** Yes.

**Mr Ward:** So it has changed. I believe there is consensus that there is a need to update the labour act. So it's your suggestion that the initiatives that are presented in Bill 40 should be removed, and if we adopted your suggestions, that's the Cambridge Chamber of Commerce's answer to updating the labour act.

**Mr Hugh Ferguson:** No, that would not be. I said at the end of my presentation that these are simply some of the issues that we want to concentrate on today: what's missing. I think that what needs to happen with Bill 40 is what's been asked of the government on several different occasions and what it found from several of its own presentations, and so on.

In November 1991 their own professor Meltz indicated in his presentation that—and I quote: "It is difficult in advance to fully assess the economic impact of the proposed reforms. To assess those implications of the reforms would require a detailed examination of the changes as well as an assessment of the interacting effects." This is their own report.

That hasn't been done. The business community has suggested that these types of things be done. Government is not willing to accept the business presentations that were put forward which indicate loss of jobs, loss of investment, and so on. Yet they continue to disregard a request even of their own departments. The Ontario Ministry of Labour basically said the same thing in November 1991: "We can't assess what's going to happen in the economy." That's it.

**Mr Ward:** One last question, if I have time. I'm not sure. Is it the view of the Cambridge Chamber of Commerce that in today's economic realities that we're facing there is a role for trade unions to play in today's society and economy? If so, in what role do you foresee trade unions?

**Mr Hugh Ferguson:** I think there's absolutely a place for the union movement, whether it is in the environment in which we presently operate—there are many models of labour relations. The North American model, which has consistently been confrontational and will continue to be so with Bill 40, may not be the best model for us to emulate at all. The previous speaker mentioned the Japanese model. There are many models. I don't think that tilting the balance of power one way or another, either towards business or towards labour, is a model we want to emulate.

There's been great talk of the Quebec model when it comes to no workers during a strike. Statistics prove that they have gone well beyond Ontario in a much smaller marketplace. They've lost millions more workdays to strikes than we have in Ontario. So why would we move to a model like that? I think what needs to be done and

what's been asked for in many occasions is that business, labour and government sit down and come up with acceptable alternatives to even the legislation we presently have.

1520

**Mr Offer:** Thank you for your presentation. I want to deal with that part of your presentation that speaks to the issue of organizing and your suggestion for a secret ballot. That, as you know, has been brought forward to the committee earlier as well as others who have said, "We have some concerns with it." What I would like is if you could share with us what—it's almost "What would be the difficulties," but it's not the right way to ask the question.

Is not the issue here not whether a union is better than another type of association but rather whether an individual should have the right to freely choose which way he or she wishes to be represented, by union or otherwise, and would a secret ballot, controlled, with full information, provide that type of choice?

**Mr Hugh Ferguson:** A show of hands is pretty clear. Secret ballot—I'm looking for the right words. It's so easy to say "democratic." I can say what I want on the outside, but when I get in the box my conscience can do its talking for me. I don't have to be implicated by raising my hand, I don't have to have somebody know what I said. I can do what I feel is in my best interests, whether I have said or not said before.

**Mr Offer:** I think what you're saying is certain principles that people all understand. They understand these things.

Within the bill there is the purpose clause, and a lot of people point to the purpose clause as the first indication of a tilt in the balance. One aspect of the purpose clause speaks about a worker freely exercising the right to organize by facilitating the right of the employee to choose. That's in one section. Later on in the same bill it says that the board shall not consider evidence that an employee has cancelled, revoked or resigned his or her membership or has otherwise expressed a desire not to be represented by a trade union.

I don't know if it's going to take much time for someone to say that that particular section contravenes the purpose of the very legislation. The purpose speaks about giving the right of an individual to choose, and four or five sections later it says that that same individual doesn't have the right to change his or her mind.

I guess it leads one into the issue as to being informed as to what a union will do for the individual and then for that individual to make a choice. Do you have any concerns with respect to that?

**Mr Hugh Ferguson:** That's why we call for the open campaign type of system, which says, "We want to organize your workplace," the employer says, "Okay, fine, we've got a notice filed," everybody gets to say their piece and then I get to make my decision based on what I've heard from both sides. There's no "Let's get that 40% or 50% signed and then the rest of them don't matter." It's open. As an employer I can tell the employees, "This is the way it is." As the union, "This is what we'll do for you."



In any contractual situation there are those basics. "Here's what I'm going to do and I'm telling you what I'll do." You make your decision, and in a vote I check my ballot, I fold it up, I put it away, nobody knows. I'll make my decision not based on any kind of confrontation or what have you, based on what I want as a person. Those individual rights must be held superior to the legislated right of any group or organization.

**Mrs Witmer:** Thank you very much, Mr Ferguson, for your presentation. I particularly appreciate your attempting to recommend to the government some amendments for future consideration. I think that's what the government has asked for, because up until now we've been dealing with a Bill 40 that still contains the same provisions of the Burkett report that was the union-driven agenda. I would hope that by the time the government completes this process we will see a Bill 40 that includes recommendations from all individuals who have taken the time to appear before the committee in the five-week period and have written letters to us.

You might be interested to know that we've had more than 12,000 people want to appear and we could only accommodate a small number.

**Ms Murdock:** No, 1,200. There's a big difference.

**Mr Hugh Ferguson:** It would have been nice.

**Ms Murdock:** Wishful thinking.

**Mr Offer:** The mail hasn't come in today, though.

**Mrs Witmer:** It's still coming.

**Mr Hugh Ferguson:** We'll see what we can do.

**Mrs Witmer:** That's right. You've concentrated here on the secret ballot vote, and as you probably know I've introduced a private member's bill because I feel very strongly about the need to protect the right of individuals and I feel that this bill, unfortunately, infringes on those rights and gives more power to unions and yet not any more responsibility.

What are some of the other major concerns of the Cambridge Chamber of Commerce from your membership? Obviously they've expressed different concerns to you. Is there anything they would like to see changed?

**Mr Hugh Ferguson:** Just shortly. We had hoped with a six- or seven-minute presentation to keep you on schedule. An example would be, and some of the research that we've done is, the prohibition on strike replacements. I can tell you that the people who worked for the Montreal Star in the early 1980s weren't particularly pleased with that piece of legislation because the paper never came out of the strike; it folded. There are many types of industry where this piece of legislation, this part of the legislation, could in fact put them out of business. Any kind of lengthy dispute, they're history. Those are jobs gone. They won't be replaced. The Montreal Star was never replaced. Not another newspaper went into Montreal. Several hundred jobs were gone.

When it comes to the first-contract arbitration, how can we ask unions and business to sit down and be reasonable and negotiate when we all know that within 30 days I don't have to do anything? All I have to do is sit there. I

can organize and I can tell those people: "Don't worry about it. The longest you're out is that length of time. After that, boys, we got her made, 'cause we just take her down to Toronto, you'll get a contract, no sweat." Why bother? Why not just do it tomorrow? Just legislate everybody's wage. Then it's done. Why go out at all?

The purpose clause has nothing to do, really, if you read the bill, with people; it has to do with an organization called a union. If it had to do with people and giving them the right and giving them the choice and giving them the information to make that choice, that's one story. The purpose clause doesn't say or do what I think it was intended to do.

A couple of other areas are the contracting in of service. That effectively removes competition from the marketplace. It says if I decide to hire a different cleaner because the one I've got just became a union and it wants to double my price and I decide to go out and look around the marketplace, why bother? I pretty well have to live with what's there anyway, all those people and so on.

This isn't people-oriented and I think government has an obligation to make all the things it does oriented to the people who put it there, all of the people. I suggest to you that management and companies and the people who run them are also people.

**The Vice-Chair:** I'd like to thank the Cambridge Chamber of Commerce for appearing before the committee, and particularly both of you for so enthusiastically putting forward your views. The whole committee appreciates the effort of the chamber and of each of you.

1530

#### OSHAWA GROUP LTD

**The Vice-Chair:** The next group is the Oshawa Group Ltd. First of all, welcome. If each of you could find a microphone there or a seat behind a microphone, identify yourselves for the purpose of Hansard and then proceed with your presentation. You're allocated a half an hour, and if you could provide at least 15 minutes of that for questions and answers, it would be very helpful.

**Mr David Joffe:** Thank you for the opportunity to speak to you this afternoon. My name is David Joffe. I'm the vice-president of industrial relations with the Oshawa Group. With me is Mr Tim Carter. He's the director of public affairs for the company.

The Oshawa Group Ltd is a Canadian company principally engaged in marketing food and pharmaceuticals to retailers and the consuming public in nine provinces.

**Mr Tim Carter:** I'm sorry to interrupt. Do you have copies of this brief in front of you? I'm wondering, Mr Chairman, if we could have those distributed so people know what they're reading. This will take about 10 minutes to go through, if that's satisfactory. The rest will be for questions and comments.

**Mr Joffe:** Those two minutes are from your time.

Not to be redundant, the Oshawa Group Ltd is a Canadian company principally engaged in marketing food and pharmaceuticals to retailers and the consuming public in nine provinces. The company is the nation's principal supplier

of franchised IGA food markets and other smaller groups of independently owned, affiliated grocery stores. In Ontario, Oshawa operates the Food City, Price Chopper and Dutch Boy supermarket chains as well as Pharma Plus Drugmarts.

The Oshawa Group employs 12,700 people in the province, a third of whom belong to labour unions. This year the company will spend over \$1 million for employee training programs. Last year the Oshawa Group contributed \$28.8 million in retail sales tax revenues to the consolidated revenue fund in addition to significant amounts in provincial corporate income tax and other levies, including mandatory health benefits and environmental programs.

The Oshawa Group is implementing policies to respond to the workplace of today and tomorrow. The company offers working hours attractive to persons who wish both part-time and seasonal employment. These seasonal employment opportunities and part-time schedules fit the needs of those simultaneously pursuing or intending to follow other endeavours.

Oshawa's training and compensation programs are designed to foster career and income advancement. Our compensation levels exceed those of US competitors as well as those offered by most other retail operations in the province.

A healthy retail sector is essential to the province's economic wellbeing. The retail sector has suffered major widespread damage from the current recession. Thousands of jobs have been lost through the failure of many small and large retail concerns. Just as the retail industry's health is highly sensitive to economic factors, so too is the economy's wellbeing closely tied to the viability of Ontario's retailing sector. The two are inexorably linked, primarily because of retailing's labour-intensiveness and large dependence on consumer spending. Past experience has shown that factors damaging to retailing are also damaging to the economy overall.

Economic spinoffs from retail include job creation in manufacturing, transportation, marketing and a multitude of service sectors, approximately at a two-to-one ratio.

Bill 40 will have a major and profound impact on Ontario's retail sector. In brief, the legislation will impede the industry's ability to return to full economic health in Ontario. It will discourage the investment of capital necessary for the maintenance of existing facilities and employment levels.

Economic renewal is a common goal. Business, labour and government must make economic renewal a top priority and consider the impact that many changes will have on jobs, training, investment and confidence.

Successful working relationships are built on trust, not on legislation. They are achieved by emphasizing objectives which are shared, one of which must be the long-term health of the company. Bill 40 appears to be predicated on the incorrect assumption that employers and employees cannot constructively work together without legislation.

It is fair to say that retailers, labour and government have been impressed by the need to restructure our economy. Oshawa assures its viability in the changing environment by investing in people and technology. In this

context, new legislation should reflect the government's sectorial approach to the industrial strategy of development and recognize the separate needs of the various sectors. Retail is different from the manufacturing and resource sectors, and these disparities will continue to be evident in the years ahead.

The combined effect of the individual clauses: Those supporting Bill 40 argue that each proposal exists in some form or another in other jurisdictions. Such comments, however, do not consider the combined influence of the proposed changes. Introduced together, the alterations will have a serious longer-term unfavourable consequence which will hinder the province's economic recovery.

The purpose clause should be modified. The purpose clause of the act should ensure that parties entering the labour relations process be treated on an equal footing, respecting the legitimacy of each side and avoiding a bias in either direction. It should foster a bargaining environment of equality without interfering with the outcome of the deliberations and the process itself.

The amended purpose clause, rather than protecting the objective integrity of the bargaining process, proposes to skew the outcome by directing that decision in favour of one of the parties. It requires a result which improves the terms and conditions of employment as a matter of automatic right without regard for other considerations. This biased directive would interfere with the objectivity of the workings of the board and impose one-sided settlements. Such settlements could well be at the expense of the business's viability and consequently the workers' wellbeing.

A ban on replacement workers is especially harmful to food retailers. Provisions which inhibit the continuance of operations mean that retailers lose revenue, customer loyalty and ultimately the ability to remain viable. This is particularly true for grocers because their customers cannot postpone food purchasing and wait for the resumption of the store's operation.

Experience has proven that in the food business, customers find a replacement store immediately, shifting customer purchase patterns and retail loyalty. The longer a struck store is closed the higher the cost of regaining lost customers after the strike. In food, the point at which it is not economically worthwhile to reopen the store and recapture lost business is reached faster than in other forms of retailing.

As a result, on this issue the proposed legislation is more damaging to food retailing than other business sectors. Without alteration, this provision will ensure the permanent shutdown of food stores more rapidly during strikes, with an accompanying high rate of job loss.

This section should grant any employee at the struck site, non-unionized or unionized or management, the right to work during a strike. The definition of "site" should include all locations covered by that particular collective agreement.

The definition of "bargaining unit" should recognize the structure of the retail sector. Discretionary powers given the labour relations board to consolidate full-time and part-time employees assumes that there are two types of employees with similar interests.



Our experience suggests that part-time employees, who are usually employed on a short-term or casual basis, view their jobs as transitional. Typically, full-time employees are more interested in pursuing long-term careers within retailing. These two employee groups have distinct interests and should be addressed separately, as they currently are.

1540

The Ontario Labour Relations Board, by virtue of Bill 40, would be given discretionary powers to consolidate two or more bargaining units represented by the same trade union. This would alter the balance of power by allowing unions to organize within smaller units and then bargain on a much broader basis.

Fair and open organizing should be encouraged. Oshawa supports a fair and open organizing process in the workplace. The proposed changes to the present legislation unduly limit employers from responding to organization efforts and, in so doing, restrict their individual rights.

If the Ontario Labour Relations Board determines that an employer has committed an unfair labour practice during a union's organizing effort, the union will be granted automatic certification without adequate representation. This could well happen in situations where an employer is not familiar with the myriad of complex rules on the subject. The thousands of small independent business owners found in retail are particularly vulnerable to this possibility.

Organizing and picketing on third-party property: A Provision to permit any picketing on third-party property will have a damaging effect not only on the intended retailer but on neighbouring stores which are not involved in the dispute.

This proposal is an obvious attempt to secure additional support for picketing workers from the neighbouring stores and from the landlord himself. The change is inappropriate as well as unfair, as it permits demonstrations or other forms of picketing on private property of third parties not involved in the dispute.

Permission to involve third-party property introduces the prospect of reducing a struck retailer's ability to successfully gain tenancy in malls owned by nervous landlords. In addition, this provision can decrease the value of space in shopping centres damaged by strikes. Confidence in business relationships, retailer to landlord or landlord to prospective tenant, are essential in encouraging investment and advancing the total economic growth of the province.

Over the last few years the retail sector has particularly been hard hit by the combined forces of the recession, cross-border shopping, changing demographics and consumer spending patterns. Many retail firms have been lost, taking with them thousands of jobs and millions of dollars in assets. The remaining companies are working hard to respond to a shifting market by investing in new facilities and improving customer purchase values. In this context, Bill 40 represents a serious threat to Ontario retailing.

The process of developing Bill 40 has not provided business with sufficient opportunity to make input into the shape of the legislation. Thoughtful consideration of the long-term impact of the proposed changes and their unintended consequences on the economy is required.

Oshawa and many other retailers are responding to the needs of the changing workplace. Bill 40, in its present form, will not assist with this approach or improve harmonious labour relations. We understand the committee will leave Queen's Park next week and hear opinions from across the province. We sincerely hope its members will consider the unintended consequences of Bill 40 and move to alter the provisions which we and other have cited.

We will be happy to answer any questions.

**Mr Offer:** Thank you for your presentation. I want to, if I can, zero in on this issue of replacement workers and what it means to an organization such as the Oshawa Group. You've indicated that you're a principal supplier to a number of different grocery chains and that you employ 12,700 people. I'm assuming that within those chains, such as the Food City and what not, that is part of the 12,700 people.

**Mr Joffe:** It is. That's correct.

**Mr Offer:** I'm also assuming that some of these stores are not in the big urban areas, but that they're in the many smaller communities throughout the province, of which they may be the only market for the community.

**Mr Joffe:** Correct. I'll let my associate Mr Carter begin to answer it, and I think I'll finish.

**Mr Carter:** I think you're right. If you don't have replacement workers and your store shuts down, what kind of consequence is this? It does a number of things to the public and to the company, and I think your question may have been with both, but let me talk about the community.

We supply about 800 independent food stores, who are independent businessmen and women spread throughout the province. We have 100 food stores which we supply that we own and about 150 drugstores. If these stores individually or collectively are shut down, it's a problem for the community. If you have a small community and there's one food store and it's shut down, where do people go? It can present a bunch of problems for those people, particularly if they have just one store in the area and don't have the means to get to another community. We also on a regular basis have buses, for old people, that go to stores. If this store is shut down, what do these people do?

With the drugstores, and we have about 150 of them, there's a special relationship in a lot of these communities between a pharmacist and his community. If the store is shut, what do they do for a prescription if somebody in the family is sick? I don't know whether that was your point, but it's a very valid one.

**Mr Offer:** That was my concern, because I think you will recognize that throughout these hearings many people have come in with respect to the need for an economic type of statement, impact, whatever, and have made, I think, some important arguments for it. But there's some other type of impact which also hasn't been done, and that's a people impact and that's a community impact.

One of the things I'm concerned about is that, for instance, if there is a grocery in a community which is not in a large urban centre, where the people in that community have no choice, they have to buy their food in one place

where they have to go, and they have one pharmacy, or if you're running a bus service and that's the way in which they get their supplies, if those places go on strike, without a replacement worker, what is the impact on the community and the people in the community?

**Mr Carter:** I think that's a very good point, Mr Offer, and I'd just add one other thing. It's not just to consumers who are short the essentials of drugs and food, but you also have the economic consequences on that small town as well. Quite often they are the major business, if you like, in that town. I think it's a good point.

**Mr Joffe:** Additionally, if I could just expand on it a bit, particularly with regard to drugstores of which we do have a number in small communities which may well be the only drugstore in that community, you do not have the ability, given the present legislation, to pilot in other personnel to man and run that store. You may have only one pharmacist to draw from. He would not well be able to man that store on the basis of providing the hours of service that are required to the community. Consequently, he'd be forced into a position of being required to shut it down for hours which are normally considered regular service hours.

The same could be true of a small grocery store, with the prohibitions currently appearing in the legislation. Otherwise it might be possible for an operator to bring in family members. He would now be prohibited from doing that type of thing. Consequently, he would be closing. People in those communities would have no options other than to go elsewhere outside the community, and who knows how far.

**Mr Offer:** I understand what you're saying, but for many people in many small communities, for senior citizens, for a variety of individuals, that isn't an option.

**Mr Joffe:** That option does not exist.

**Mr Carter:** That's right. It's particularly a problem in the winter. Transportation is difficult. At this time of year, when crops are coming in, they may come in from the local community. It's a damage to those communities because they bring in their crops and they depend upon that area to sell them.

**Mrs Witmer:** Thank you for your excellent presentation. I would agree with you that successful working relationships are built on trust and that you can't legislate that type of relationship. Certainly in my past work with boards of education and staff, that's how we built those relationships; it was through trust.

However, you've pointed out here, and certainly other people have pointed this out in the last two weeks, that this bill seems to be trying to respond to the unions, I guess, but in doing so, it doesn't recognize the varying and very different needs of the various sectors. Although there are some things in here that may meet the needs of the manufacturing and resource sectors, it's becoming abundantly clear that the far-reaching impact on the retail sector and the service sector, such as the hospitality and tourist industries, have not been thoroughly examined and looked at. The consequences that we're seeing as a result of this legislation are really becoming very frightening.

I understand that customer loyalty is a very important factor in the retail food sector, and I guess I'm a good example of that; I always shop at the same store week after week and for years and years. Could you tell me what would be the impact on your business if supermarkets had to shut down completely during a strike because of the ban on replacement workers?

1550

**Mr Joffe:** If I can, let me relate to you an experience that we went through approximately 15 months ago under the existing labour relations bill, where our retail stores, particularly in the Toronto area, were affected; however, they were not directly on strike. Unfortunately, we did experience a strike at our main distribution centre in Malton and on the Queensway. As a result of that, we encountered a significantly high rate of secondary picketing at retail outlets. With that in and of itself, the inconvenience had a devastating effect at the retail level. It dissuaded customers, many of whom had been customers for years, from continuing their shopping patterns. It interrupted the flow of product; we were able to supply it by alternate means, but certainly not to the extent that we would have otherwise.

With that experience, and again bearing in mind that we were able—however, with considerable inconvenience—to do some business at the retail level, it took well over a year and a considerable investment to regain that customer shopping loyalty.

I take that and ask you if you could consider, what would the impact have been had we experienced a strike at retail itself, particularly in the area and considering any marginal operating stores? It could have well required an investment of a magnitude that those stores would not have reopened.

**Mr Carter:** I'd like to pick up on what Mrs Witmer said at the beginning, which was sector-specific and the broad brush. I think what Mr Joffe said pertains to the food industry and it's very specific. This type of prohibition, if you like, on replacement workers hits food retail very hard, because people don't postpone food purchases. While you like to think that shopping in stores is fun, in the food business it's a repetitive thing you have to do and you do it as quickly and conveniently as you like, and when your ability to do that, knowing where to park and what aisles to go down and everything, is broken up and you go somewhere else, it's hard to get people back. So that part, as David said, is a tough one.

What happens, then, is that the costs are very large to get them back. So you hit the break-even point for shut-down in a strike in the food retail business faster than other places, because people can't postpone food. So the economics of this particular clause are very different on our industry than on other ones. I think your point is valid, that it needs to be lined up with the industrial strategy which the province has set, which is very sector-specific. You could make it consistent with what has already been accepted as the industrial strategy if it looked at different sectors, and it's clear that a broad-brush route in this area isn't doing that.



**Mrs Witmer:** So that would be your recommendation, then, to the government, that it would do that?

**Mr Carter:** Yes. Stay consistent with the industrial strategy.

**Mr Carr:** I just wanted to know if you could explain how you would classify your state of relations with your employees right now. The government said this will improve cooperation. How do you see it right now, and do you see any way that this will help improve it?

**Mr Joffe:** To coin a phrase, if it's not broke, don't fix it. In both employee groups, and by that I mean we have a third of our employees who are unionized—in the province we have approximately 20 collective agreements; I've been with the company eight years and during that time we've experienced the one interruption, albeit a very dramatic one; only one, thank God—and there is the non-unionized sector.

Let me speak to our larger chains, principally Oshawa Foods. We have the majority of the stores not organized, and we enjoy good relations, we think, among both the unionized and non-unionized groups. We have training programs in effect, principally covering the non-unionized workforce, but we also cover the unionized group in those training programs in a joint fashion. Additionally, we have full-time employee relations managers in place who handle complaints, questions, concerns in a confidential fashion. We feel that it's a very progressive and forward-reaching program, along with a confidential and private hotline to, again, handle any concerns among either the union or non-union groups.

**Mr Klopp:** At the beginning, you said you're in nine provinces. What province aren't you in?

**Mr Joffe:** BC.

**Mr Klopp:** BC? Really? It's interesting.

With regard to the replacement worker situation, it's my understanding that under section 73.2 replacement workers can be used in such emergencies as seem needed. As to Mr Offer's example about a town where you owned the business and they were unionized and went on strike, under the act, first of all, managers can work automatically—that's a given—but also section 73.2 of the act does make provision for emergency. I would think someone starving to death in their house—I'm sure the board or somebody would think that would be classed as an emergency and you could get people to work at the store.

**Mr Joffe:** Two points to that, if I could.

**Mr Klopp:** Sure.

**Mr Joffe:** First, yes, managers can work, but I don't know for how many hours continuously. In small towns you've got a very small staff you can draw from. Customarily you'd have only one management personnel in the store. A pharmacy is an example. You are looking customarily at long hours and seven-day operation to provide the kind of service the community needs. I don't know that you could put that all on one person; I don't think realistically you can.

Second, I don't know what it would take to get the board to rule what constituted an emergency situation.

Right now, as an example, I would look at refuse collection as constituting some sort of emergency, yet it is excluded from the emergency listing under the public employees act. So I presume nothing. If that's the case, then it should be so covered in the legislation specifically.

**Mr Klopp:** I come from a very small town with a heart. Also, I live in an area where there are a lot of even smaller towns, but they're all quite good: Dashwood etc. The stores are owned by individuals. I know some of the stores are franchised. Do you deal with franchise-type stores?

**Mr Joffe:** Both franchised and wholly owned independents.

**Mr Klopp:** I'm not sure—and I apologize for not knowing whether they even could be unionized—if your company was unionized employees, would they even be affected? But let's assume for a minute they are. There's one owner and three part-time employees in the one store and four in the other and one owner, in fact husband and wife; it's a family affair. Both of them under this legislation, the way I read it, would work because they both very clearly work every day. Of course, they would tell you they could work many, many hours without any of their part-time staff. I appreciate where maybe you don't come from a smaller-town area. That's no problem; I don't come from a big city either, so I don't know how a big store works.

**Mr Joffe:** Originally, neither do I, when it comes to that.

**Mr Klopp:** But I do know that situation. On the other side, you are in Quebec, then, I would gather?

**Mr Joffe:** Yes, we are.

**Mr Klopp:** They do have replacement worker laws there.

**Mr Joffe:** Yes, they do.

**Mr Klopp:** How has it affected your companies in Quebec, since they have that—

**Mr Joffe:** Since that legislation's been enacted, we have not had a strike. If we did have a strike, it would have the same impact and effect that we see here. As I said, we have not had any type of interruption in the province of Quebec. But given the experience we had in Ontario with the distribution strike and the chaos it created at retail, even though retail was not directly involved, I don't even want to think about what a strike at retail would do to the business.

**Mr Klopp:** But you live under that rule there, and it hasn't been—

**Mr Joffe:** We live under the threat of it, yes.

**Mr Klopp:** Well, I mean, "threat"—

**The Chair:** All of that having been said, it's time to say thank you to these people participating in this committee process, the Oshawa Group Ltd and its directors, staff. We thank you very much for your interest in the issue. We appreciate your taking the time to come here and trust you'll be keeping in touch.

The next group is Waterloo Regional Labour Council. There's a little bit of setup necessary, because I understand they're going to do some audiovisuals. In the interim, I might announce that Ms Anderson and Mr Fenson, research officers from the legislative research service, have researched and prepared a memo on the issue raised during the exchange between Mr Fletcher and the Welland Chamber of Commerce.

The Welland Chamber of Commerce had insisted that unions would not have to go back to their members with the employer's final offer as a result of Bill 40, that the members would be at the mercy of the union leaders. Mr Fletcher adamantly refuted that, indicating that this was a totally inaccurate perception of Bill 40, and indeed that there was nothing in Bill 40 to permit that conclusion.

The research was very skilfully and promptly done by Ms Anderson and Mr Fenson. Mr Fletcher might take some solace in the fact that it has indicated that he's entirely correct. There's absolutely nothing in Bill 40 that would permit that conclusion, and indeed nothing in the existing legislation that would permit that conclusion. It's unfortunate that people don't take advantage of the fine research facilities and resources at Queen's Park before they make those sorts of bold statements.

Of course, that memo is available. Members of the committee already have it. Any member of the public who wants to avail himself of it need only write or call the clerk of the resources development committee.

#### WATERLOO REGIONAL LABOUR COUNCIL

**The Chair:** Please be seated. Go ahead. Tell us your names and your titles, if any, and lead up into what I understand is going to be a videotape, which we are going to deal with first.

**Mr Tom Rooke:** I'd like to thank you, Mr Chairman, for allowing us the opportunity to appear before yourself and the committee. My name is Tom Rooke. I'm president of the Waterloo Regional Labour Council. With me is Sandra Ellis, who is an executive board member who wrote the brief on behalf of the labour council and will be reading it to you this afternoon.

We'd like to start off by showing you a short videotape of a scene of a picket line that took place in Cambridge this past spring. After this there are interviews with the young lady who was involved with this picket line. We'll leave this tape with you so that you can view the whole tape at your leisure. If you would, please turn the tape on for us now.

**The Chair:** You'll note that legislative broadcast service has again done what would seem to be the impossible.

[Video presentation]

1604

**Mr Rooke:** At this time I'll turn it over to Sandra Ellis.

**Ms Sandra Ellis:** As Tom said, we'd like to thank the resources development committee for awarding us standing before it to hear our remarks regarding Bill 40 and to state that we sincerely hope the incident we just viewed on the video will belong to a bygone era.

This government should be congratulated and commended on the legislative changes to the Ontario Labour Relations Act being put forward in Bill 40. These changes will put the province on the road necessary to make the economic structural changes needed to work towards sustainable prosperity over the long term.

The business community is bent on clinging to its theory of scientific management, wherein management has complete control and assumes that workers themselves are incapable of intelligent thought and so are best equipped to do no more than mundane repetitive tasks.

Theories and attitudes need to be changed. However, the campaign which has been undertaken by the business community around these proposed changes makes one realize that this road will not be smooth. Fearmongering benefits no one, including those who stoop to such injurious and immature behaviour.

There are a number of concerns we would like to raise around the proposed and dropped amendments. Our comments are based on the paper produced by the Ministry of Labour, Highlights: Labour Relations Act Reform.

Organizing and certification: The government is proposing that the OLRB be required to begin hearings within 15 days of a complaint around disciplinary action during an organizing campaign and to sit for at least four days each week until complete. While we applaud swifter action in this area, we question whether this amendment requires an expansion of the board in order to ensure sufficient person resources to hear these sorts of complaints. Any additional expenditures attributed to these amendments will not be looked upon favourably by any constituency.

While we could accept the logic around dropping union access to employee lists for organizing purposes, we can find no feasible reason why such lists should not be given to the union after an application for certification has been submitted to the OLRB. We firmly believe that this amendment should have been retained.

We agree with the government that a mandatory secret ballot on certification is not the best indicator of the employees' desires. It requires much more effort on the part of the employees to sign a membership card. This manner has been, and still is, the best method through which the employees make their true desires known.

We are also very happy to see the \$1 fee dropped. This in itself has been a source of contention in organizing drives for years. We also agree with retaining the amendment which disallows anti-union petitions. You have brought Ontario into the present with laws in place elsewhere in this country.

We are indeed saddened to see the government bend to business and leave the automatic certification level at 55%. We continue to maintain that the proposed 50% level is consistent with the principle of democratic decision-making.

In the section dealing with information on employers' and employees' rights and obligations, the government is considering a telephone information service. It would be beneficial, if this proposal comes to fruition, to extend that training to those areas and cities where labour councils and/or labour community service agencies have full-time staff.



In the last year, our labour council has had unprecedented numbers of inquiry calls from the public which are in turn referred to yet another phone number. It would serve the public and the government itself much better if it were possible to answer such inquiries and refer them to any other community resource applicable.

**Bargaining unit structure:** We sincerely thank the government for retaining the proposal which puts both part-time and full-time employees in one bargaining unit where there is majority support for the union. Part-time employees have historically been treated unfairly where they were not part of the unit. Today, as more employers move to greater numbers of part-time employees, much to the detriment of full-time positions we might add, their representation is needed even more.

Workers should not be as expendable as business would like them to be. Loyalty and pride in a company is not achieved by moving away from full-time positions offering security and the possibility of a career at one workplace to a laissez-faire attitude towards part-time employees. This move only serves to increase the distrust, uncooperativeness and confrontational attitudes that have plagued the system for decades.

**First-contract negotiations:** First-contract arbitration is to be accessible and automatic 30 days after the legal strike or lockout date. This amendment will help in allocating incidents such as the one on the video to the history books. That situation arose, as Tom said, from a long and arduous strike for a first collective agreement at a Thomson-owned newspaper in Cambridge, Ontario. Such cases as these are to be settled by private arbitration. Our question and concern is: Who picks the private arbitrator? Does the person have to have joint approval? What happens if that approval is not reached?

**Reducing industrial conflict:** In the section dealing with replacement workers, we vehemently disagree with employers having the ability to move work. This is simply another mode of hiring replacement workers. When union members utilize their only ultimate weapon, labour withdrawal, it should not be easy for the employer to carry on by any means. The government should definitely resist this exclusion. Conflicts may in fact become more commonplace as employers attempt to move their work elsewhere. Striking employees will not look favourably on their work being done at another work site. We believe that allowing work to be moved will create chaos in any strike activity.

1610

There is substantive evidence that the health and safety of the general public has not ever been placed in jeopardy by any strike action, and we disagree with such exemptions as are listed in the essential human services and delivery of services section in the Highlights paper. However, we agree with the proposal that states that non-bargaining unit employees will have the right to refuse to do struck work. These refusals should also take place without fear of reprimand after the strike.

In dealing with the definition of a strike, and taking into consideration the government's objective of reducing conflict, we feel it should be made known that, even if the right to negotiate, the right to refuse to cross a picket line

or handle struck work has been dropped, workers still have the right to refuse to cross a picket line if they fear for their own health and safety.

**Grievance and arbitration process:** The government sees fit to give arbitrators the power to interpret all employment legislation. The government then should also produce an interpretative guidelines booklet. If different arbitrators interpret the same legislation differently, then employers and unions will begin using tactics to stall or speed up the process in order to get their first-choice arbitrator, depending on the issue at hand and former rulings that have been laid down.

**Consultation:** Every collective agreement is to contain a provision to engage in periodic consultation on workplace issues. Here's a word we already need interpretation for. We are completely positive that the word "periodic" definitely has different meanings to employers and unions.

**New service:** The new work organization and partnership development service being established sounds very much like the government is getting into the consulting business. There is no indication who will operate this service or how large the workforce will be. We believe a cost-benefit analysis is definitely needed before implementing this sort of service.

**Ministerial power re adjustment:** The minister himself will be able to exert more power on the parties to discuss adjustment measures around mass layoffs. This can only take place where the minister is aware of mass layoffs. What processes and time lines will be implemented to ensure this awareness and guarantee discussions? The non-mandatory code of best adjustment practices being proposed definitely needs to have input from all parties prior to its publication.

In closing, we'd like to say that we feel these legislative changes take us closer to a more equitable level of awareness and cooperative action in what we hope will be many more workplaces. They do not, however, take us to where we feel we need to be to ensure equal power in the management processes still prevalent in this province. Until labour has the ability to be considered "as having a legitimate and valued role in strategic decisions made in enterprises and in public policy-making" (US Department of Labour, 1991), there will continue to be labour relations problems in Ontario.

We thank you for your attention. We're open for questions.

**The Chair:** Thank you. I'm sure there are questions, from Mr Carr for starters.

**Mr Carr:** Thank you very much for your presentation. I want to start with page 1, where you say, "The business community is bent on clinging to its theory of scientific management," talking about complete control and that the workers are incapable of intelligent thought.

Don't you think it's unfair to paint, as you did on this page, all the business community saying that? Don't you think that hurts, first of all your presentation, but the whole idea, when you make a blanket statement that the business community thinks that way? Quite frankly, I don't think

anybody on this committee believes the entire business community feels that way. Why was that in there?

**Ms Ellis:** We speak from personal experience. Having been involved in the labour movement for the last 20 years of my life, I have found no businesses that have an employee workforce which they treat with respect, trust and equality.

**Mr Carr:** That is sad. If I might ask, just personally, what companies have you been involved with?

**Ms Ellis:** I have worked at Electrohome Ltd, I've worked at National Cash Register in Waterloo and I spent the last 17 years of my life working for Canada Post.

**Mr Carr:** That explains it.

**Ms Ellis:** I rest my case.

**Mr Carr:** On page 3, you say you don't agree with the secret ballot on certification. Isn't it true that the reason unions don't want that is that they're afraid they won't be able to win the vote for certification?

**Mr Rooke:** No, I don't think that's the case at all. I think when an individual takes the time to sign a card, he's let everyone know that this is his choice, to become a union member. By forcing him into a secret ballot vote, now you're really challenging the integrity of that individual and whether he knows what he really wants. I think by making the effort and going out and signing the card, he's already made it known that he wants to become a union member. I think that's a choice that should be open to him and that's a decision that should be left to the individual.

**Mr Carr:** We heard from a lot of the unions accusing businesses of putting pressure on. What about the other side during this period where unions put pressure on somebody to sign a card? Doesn't this, through this process, through secret ballot, make it so that at the end of the day there can be no dispute because in a secret ballot no one will know how you voted? That's the only true democratic way to see the true wishes of individuals, whether it's for unions or against unions. Isn't that the case?

**Mr Rooke:** I don't feel that's the case at all. The employer has a captive audience. The organizing drives don't have any opportunity to go in to the employer and talk to the employees and give them their side. I've never been involved in a union drive where anybody's been coerced into signing a card.

I've been involved where I've personally negotiated six first collective agreements—in the process of negotiating two more—where it has taken almost two years for these groups to be certified. In the one group, two individuals were fired by the corporation. During a union drive, if two of your fellow employees are fired because the company feels that they're union activists, that sends a direct message to the group: "Hey, wait a minute now. If we sign one of these cards, is our job going to be put in jeopardy as well?"

I think it's a harsh reality when an individual makes a choice to become a union member and then loses his job because he made a choice, an adult decision, on the day that he has to go to the hospital and pick up his wife with newborn twins. I think that's really hard on that family.

There's a domino effect: Not only is there an effect on the individual, that he's lost his job, but a hardship is put on his family because he made a choice, as an adult, to sign a union card.

**Mr Carr:** Let's give an example—you talked about the list—let's say in a perfect world, if we set it up so that the time frames could be met. The list could be provided, say, as one of the gives and takes. So material could be sent to people who could read it in the leisure of their homes. Let's say the organizers could come in from the outside; a Steelworker could come in and an organizer could sit down with the employees. Under those circumstances, if they could get their message out, would you be in favour of the principle of the secret ballot certification?

**Mr Rooke:** I still think you're challenging the integrity of an adult who's made a choice by signing the card. Once they've signed the card they've made their choice known and it is fully clear to the individuals that they've made their choice.

**Mr Ferguson:** It appeared, over the past week, and I suspect this won't change, Mr Chair, there are about three emerging issues that are the main points of contention: number one, of course, being the non-replacement worker clause, the second one being the whole question of the certification process and petitions, and the third one being whether or not there ought to be secret ballots in each and every case and whether there ought to be a provision for that.

I would like know what your opinion is on the question of petitions. It has been suggested to me, and I think it's a pretty good analogy, that it would be generally like running for provincial office, being nominated by 100 individuals, filing your nomination papers and then, after the deadline passes, somebody else comes in with a list of 25 people who want to take their names off your nomination paper. That would automatically rule your nomination invalid and there would be no recourse in order to address that; you know, the election goes on without you. I would like to know what comments you would have on those three particular issues.

**The Chair:** It could be striking close to home.

1620

**Mr Rooke:** First off, on a petition: Once a petition starts, it's usually started by management. It takes a lengthy time; it holds up the certification. They talk about cooperation. What that does is to split the workforce, because then you have the side that's in favour and then you have the "anti" side. So then what happens is that there's a lot of time and money spent by both sides down the board for hearings, and what you've now created is a split in your workforce. For a group that wants to have harmony and work together as soon as these petitions are initiated you've caused the exact opposite.

I've been down in front of the board to a hearing where you had workers pitted against workers, where the management, the people who started the petition, the workers who started the petition who want to have their names withdrawn now from the cards, were sitting on this side of the room and the supporters of the union were sitting over



here. So they know full well who they are. Then you have a group of people who don't know what to say to each other and don't know whether or not they should communicate back and forth, because you don't know what's going to come out of the board next.

So really what you've done is you've split a workforce, so there is no longer any harmony in that workplace because of these petitions. As the time goes on, the less harmony there is and the more strife there becomes because of these petitions. It may take 15 months to be certified and what usually happens is that over this 15 months either the union really becomes solid or the support for the union is lost. In most cases the support for the union becomes solid and the demands of those workers increase from what they were. Usually a worker comes and joins and makes the choice to become a union member because of the fact he feels he's not being treated equitably and may not be treated fairly and there may be some favouritism in the workplace.

**Ms Ellis:** The ideal work situation in this province is to not need unions. That would be an ideal. If everybody was treated equitably, fairly, with trust and respect, then unions would not be needed. Unfortunately, human nature being what it is causes employees to feel like they are not being treated equitably with trust and respect in the workplace, so they seek to organize themselves into one collective voice.

**Mr Ferguson:** Can we just talk about that for a moment, just the organizing process, because I think there's some mythology around the actual practical application of a union organizing itself. What happens here? The picture that has been painted for the committee is that the Steelworkers meet at their head office and pick a town and they decide to roll in and start knocking on the door of a company and say, "Hi, we're the union and we're here to help you." What is the normal process?

**Mr Rooke:** What usually happens is that, in our case—I'm a member of the Canadian Auto Workers, so we have an area office in Waterloo region—we have a call come in from workers who are disgruntled at their workplace. They usually don't leave their names, but they ask for an organizer's name and we give them the organizer's name who works out of our office and his number. He'll sit down and he'll meet with a group of three or four of these workers and he'll see and listen to their complaints. Then usually a leaflet's done up and one of our cards that you must sign is stapled to that leaflet and he'll go out with a number of other union activists in the area and they'll do a plant gate, inviting all the workers to an open meeting—and it has the time and the place for this open meeting—to listen to their concerns.

Then at that point in time an organizing drive will start, cards will start to be signed and once they reach the magic number of 55% they'll apply for certification. But all through the certification process there are all kinds of open meetings where both sides can come and hear the union's side. The anti-union supporters are invited to these meetings as well to voice their concerns of why they don't want to become unionized.

**Mr Fletcher:** Mr Chair, one quick question. We've been told that what will happen is during bargaining the union will go back and ask for a strike vote before bargaining starts and once the company makes an offer, bang, that's it, they're on strike. Is that the way it works?

**Mr Rooke:** No, what happens is, in my organization—again, I'll refer to the Canadian Auto Workers—all our strike mandates are secret ballot and when we take a strike vote if we don't have 66⅔% of our members in favour of a strike we won't even pursue it. Even if we reach 100% support for a strike, the national service rep who does the collective bargaining must apply through a strike authorization form to our national president to get authorization to take a strike. The last company offer is brought back to our members and they vote on that, and it's left to the membership.

**Interjection:** By a secret ballot.

**Mr Rooke:** By a secret ballot. It's brought back at a membership meeting and it's posted for seven days and it's voted on by the members. At that point in time, if membership turns that final offer down then a strike is called, after we receive authorization from our national office.

**The Chair:** Mr Offer, three minutes.

**Mr Offer:** Thank you for your presentation. I have a question around the area of organizing, but it's not anything to do with a secret ballot or what happens during a drive. It has to do with the legislation and in the area of expedited hearings during an organizing drive.

Let me tell you where I'm coming from. In the legislation it says, "If the trade union requests an expedited hearing of the complaint, the board shall begin its inquiry within 15 days," that it "shall hear the complaint on consecutive days from Mondays to Thursdays, except holidays, until the hearing is completed," and that it must "render its decision on the complaint within 48 hours after the hearing is completed." In fairness, I haven't read chapter and verse from the legislation, but I think that's pretty fair.

My concern is on the basis of the employee who is part of the hearing. My concern is that when there is an expedited hearing, without any flexibility, without any discretion given to the board, if, for instance, the employee, for whatever reasons—it may be having to go to a hospital, to pick up kids, for weather—can't make it to these hearings, my concern with the framework here is that at the hearing he or she is not there and the hearing is in essence over. I have a concern on the basis of the employee's rights that because it is so definite that they must hear it and it must be this day and it cannot be postponed, there isn't a flexibility which would allow, in many ways, an employee to deal with some of the matters of life. I would like to get your response to that, because I'm going to ask ministry officials if they can provide an assurance that it might not be the case.

**Mr Rooke:** Once again we're dealing in the worst-case scenario. I figure if it's inclement weather, not only will the employee not be able to be there but I imagine the board won't be able to be there either.

But let's look at it from the other aspect of what we have now where I'm in an organizing drive, I'm one of the

key union organizers, I get fired today, 10 months down the road I still haven't been in front of the board, 11 months down the road I've been in front of the board, 13 months down the road I have a settlement and I have my job back and I get redressed. All right? But what's this done to my family for 13 months?

Let's deal with the real world and not look at the worst-case scenario always. I think we have to look at it. I think we're all adults and we're all human beings. If there's inclement weather and the individual can't be there, I'm sure they're going to give him some type of leeway to allow this individual to be there.

**Mr Offer:** Thank you, and I certainly have no problem with expediting hearings. I don't want you to read that in. That's not my concern. My concern is that in addressing the issue you've said with prolonged hearings, they have gone so far to the other end that there is no flexibility in case of things that happen to everyone who's in this room or is watching. Everybody has had appointments they have not been able to meet for a variety of reasons. My concern is, what happens when you have a hearing cast in stone? I am most concerned about the rights of the individual in meeting that issue, and I think that maybe a flexibility, though not to have the result you've indicated, has to potentially be brought back in to the legislation.

**Ms Ellis:** Expedited hearings have to be requested. It's not automatic. Therefore, in communication with an employee in a situation such as you're indicating and with the union, it wouldn't be requested.

**Mr Offer:** I have two further points. You're absolutely right. My concern, and it's probably just the way I'm posing the question, is that the request has been made. The employee now is into this expedited hearing. My concern is, after that request is made, these things come up that may result in the employee's rights unwittingly being denied. That's my concern about that. I certainly do appreciate the point you're making, that there's the very other side of this matter, which is unduly lengthy, prolonged hearings. I understand that, but—

**Mr Rooke:** I'm sure that the employees—

**Mr Offer:** Could I have one last point?

**Mr Rooke:** If I could respond to that, I'm sure that if the employee has unforeseen—say his mother or father died—I'm sure that he is being represented by counsel, who will make every effort to get there and represent the employer as best he could, and I'm sure that the hearings officer would say, "If there's a question that's directly dealing with the employee, can you have him here tomorrow?"

1630

**Mr Offer:** I have one further question. I have a point—I have to use my time frame—and it's with respect to the response by legislative counsel on the Welland Chamber of Commerce and the chamber's statement that unions will not have to go back to their members with their employer's final offer. I'm trying to recall some of the dialogue that took place with Mr Fletcher and the chamber. I think maybe some language, unfortunately, was used.

**The Chair:** Do you have a question for the Waterloo Regional Labour Council?

**Mr Offer:** No.

**The Chair:** In that event, we're going to thank the Waterloo Regional Labour Council for its participation.

**Mr Offer:** Can I have a point of order?

**The Chair:** Wait till we thank the Waterloo Regional Labour Council. You can use up First Line Trust's time.

I want to thank the Waterloo Regional Labour Council for its participation here this afternoon. You've provided in some respects a novel presentation that I'm sure has been enlightening and has obviously captured the interest of all the members of the committee. The Waterloo Regional Labour Council has been for a long time at the vanguard of the labour movement in Ontario and you demonstrated that once again today.

**Mr Rooke:** Thank you for the opportunity.

**The Chair:** First Line Trust is the next participant. While they're coming forward and settling in, there's coffee at the side and you might just have time to get one because Mr Offer's going to address this issue.

**Mr Offer:** Briefly, the Welland Chamber of Commerce made a statement that unions will not have to go back to their members with the employer's final offer. Mr Fletcher took issue with that particular statement. I'm a little concerned with some of the language that was used. We asked legislative research to look into this question and it is clear from its response that neither the current statute nor the proposed amendments require unions to hold a vote. It would seem that the statement made by the Welland Chamber of Commerce was in fact correct and that the concern and the statement by Mr Fletcher is not borne out, not only by this legislation but indeed by the previous legislation.

I would hope, as a result of the language that was used, that we would take the opportunity to send to the Welland Chamber of Commerce this response by legislative research service.

**The Chair:** You can do anything you want with it. Mr Fletcher, do you want to respond to that, on First Line Trust's time?

**Mr Fletcher:** I'll be as brief as possible. I was going to suggest that this be sent to the Welland Chamber of Commerce myself and also to the Welland and District Labour Council.

**The Chair:** Okay. It looks like everybody is going to send it to everybody. It remains, however—and I'm thankful to legislative research—that Bill 40 does not create the scenario wherein labour union leaders can bypass their membership.

#### FIRST LINE TRUST

**The Chair:** First Line Trust, tell us who you are. Please be seated, because the mike won't pick you up if you're standing.

**Mr Brendan Calder:** I've been trying to keep your attention for three minutes here. I thought I'd use every trick in the book by standing up.



**The Chair:** You have to sit down or else it won't work. You have to sit down or else the microphone won't pick you up.

First Line Trust is, I'm advised, the only mortgage lender providing a 25-year 9.9% mortgage.

**Mr Calder:** Ladies and gentlemen, thank you very much for agreeing to listen to me so late in your day. I'll be quick. It's not often that I can play a small part in our democracy. I've never been in this building before.

I have no illusion that my message today will change anything. You seem intent on passing this labour law, whether it's good for our province or not. I am just here to tell you how this law affects our company and how it affects me.

My name is Brendan Calder and I'm the president of First Line Trust. My partner and I started our company seven years ago. First Line Trust is now a leading residential mortgage lender across Canada and is the leader in the mortgage-backed securities business. We have helped over 30,000 Canadians achieve the dream of home ownership by giving them lower-priced mortgages—lower than the banks—with better features. But what's more interesting for this forum is that we've created 203 well-paying jobs, 169 of them in Ontario. The average salary is \$41,000 per annum. As I read in the newspaper, it doesn't compare to Ontario Hydro, but \$41,000 is a pretty decent wage.

Our customers are happy, our staff are happy and our shareholders are happy. My partner and I are among the shareholders. We have invested all of our net worth in this company, which brings me to my second point.

Entrepreneurs and business people like us—whether you have any interest or not, I just have a sample of one here—will not invest money in a province where the government stacks the deck in favour of unions and union bosses. We have a choice still. There are no walls around Ontario keeping us here. All of our business is done via electronic means. Telephones, faxes and computers weren't around when unions were invented. It is now possible for Ontario citizens to buy anything using a 1-800 phone number, including our 25-year mortgage that you've heard about. All financial products and services can be delivered this way as well; all of ours are.

As entrepreneurs and business people, with all of our own money at risk, we will be encouraged, if not forced, by this proposed labour legislation to expand our business and create jobs outside the province, in provinces whose governments want people like us and businesses like ours that create jobs. Thank you. That's all I had to say.

**Ms Murdock:** If you have 203 employees who are earning an average of \$41,000 a year and from the sounds of it are quite happy—

**Mr Calder:** By the surveys they are; we survey them.

**Ms Murdock:** —and they're eligible, under the existing legislation that we have here now, to organize, correct?—I mean there's no exclusion from your particular business, you're not one of the excluded—

**Mr Calder:** I don't think so.

**Ms Murdock:** So they are capable of organizing this, as we speak?

**Mr Calder:** I understand so.

**Ms Murdock:** And they haven't chosen to do so.

**Mr Calder:** That's so; that's right.

**Ms Murdock:** Why do you believe that amending the Labour Relations Act with the amendments of Bill 40 will cause your staff to go that route?

**Mr Calder:** I'm too busy trying to run a business and I don't have four labour lawyers on my side. Most of what I know is what I read in the newspapers and cursory glances at the legislation and what informed people tell me. My understanding is that its going to be infinitely easier for people to start unions. I am going to be forced to do business with Bob White. He will decide whether I'm going to be unionized or not. This is what I understand.

It doesn't matter how "much easier" it is; the point is, I don't want to have to deal with it. I don't have to. I don't want to have to. I'm glad I was here earlier. I can't believe, and I only realized—this is how naïve I am—that it's not even a secret vote.

**Ms Murdock:** What isn't?

**Mr Calder:** Whether you're going to have a union or not. I can't believe that. I won't live in that environment. Say they do have a union, I can't go and get someone else to work if this union decides to strike me? That makes sense? Not to me.

**Ms Murdock:** Obviously, we're coming from different viewpoints of the world. There was a woman in here the other night, an individual. She didn't represent anyone except herself. She was saying that she's a part-time worker by choice initially, and then went into another classification of the job and chose that. It gave her more job security in terms of pension rights and so on.

She did that because part-time workers in Ontario for the most part—they aren't excluded per se but in reality they are, in that they're not on the job site all that much. Anyway, she ended up that she was in favour of this, mostly because it would give her the opportunity; if she wanted to choose to join a union she could do so, but being unionized would also provide her with some sense of security, benefit packages, that would then allow her to be more of a consumer in the market.

**Mr Calder:** She can have anything she wants. I will not work in an environment where I have to deal with unions, and so far so good; that's why I'm quite happy with the existing legislation. I'm quite happy because I'm still running a business. We joined a group and I'm quite prepared to go along with—

**Ms Murdock:** And you're making money under the present system?

**Mr Calder:** Yes. We're making money and we're doing well and we're servicing customers and we might have some clients here for 25-year mortgages, who knows?

**Ms Murdock:** Who knows?

Interjection.

**Mr Calder:** No, it's at 9.9%.

**Ms Murdock:** Anyway, thank you. That's fine.

1640

**Mr Huget:** Very briefly, I guess the thing I'm really interested in is what's going to happen to the mortgage rates. You can give me your advice on that through the course of your answer, too.

**Mr Calder:** I don't make any bets there either. I have no idea.

**Mr Huget:** I just have two or three very brief questions. Have you ever been the subject of an organizing initiative by your employees?

**Mr Calder:** No.

**Mr Huget:** Are you aware of the fact that there is nothing in this legislation that forces your employees to do anything? In fact they can organize now and they can organize after this legislation is amended and will likely be able—

**Mr Calder:** My understanding is that this legislation will make it easier for them to organize. Is that true?

**Mr Huget:** The point is—

**Mr Calder:** Is that true?

**Mr Huget:** No. It forces no one to do anything.

**Mr Calder:** Is it easier for them to organize?

**Mr Huget:** No. I wouldn't say it makes it terribly easier.

**Mr Calder:** Then I'm misinformed. I understood that it makes it a lot easier.

**Mr Huget:** I think you have to look at an issue. I believe that unions do not organize workers; employers organize workers.

**Mr Calder:** I'm a businessman. I'm not pro or against unions. I just choose to decide to run a business where they're not overstacked against me.

**Mr Huget:** I think your employees could organize before this bill or organize after it and continue to have the right to organize. I just don't see, if you have what is obviously a very highly skilled, well-paid workforce that you claim is extremely happy, how this bill affects you in any way, shape or form. I don't see it.

**Mr Calder:** I'm sorry. You don't see that?

**Mr Huget:** No.

**Mr Daigeler:** Mr Calder, since this is the first time, according to what you said, that you're here, I should explain a little bit about what the committee is all about.

**Mr Calder:** I meant that.

**Mr Daigeler:** These members over there represent the government.

**Ms Murdock:** We're New Democrats.

**Mr Daigeler:** This side over here is the opposition.

**Mr Calder:** I was trying to figure out earlier who was on whose side.

**Ms Murdock:** It's pretty hard to tell sometimes.

**Mr Calder:** But I also noticed the names are all different. Do they all change all the time?

**Mr Daigeler:** The first three here—

**Mr Calder:** They're all different names.

**Mr Daigeler:** Yes, the first three here are members of the Liberal opposition and then those two members are members of the Tory party. So obviously when you didn't get a straightforward answer from a representative of the government, you know why that was, with regard to whether this legislation makes it easier to organize or not.

**Mr Calder:** What is the answer to that? Does this legislation make it easier to organize?

**Mr Daigeler:** According to the opposition, it certainly does. Now, again, the government is arguing or some members of the government are arguing it isn't. It's up to you to decide.

**Mr Calder:** I've decided it's easier to organize with this new legislation.

**Mr Daigeler:** Let me say one thing. Certainly from my party, we see a very important role for the work of unions in this province and in this country. Frankly, I was a little bit struck by your very vehement opposition to any kind of effort of unionization. I'm not sure whether you know this, but could you tell me, what is the extent of unionization in the banking sector, in the financial sector generally?

**Mr Calder:** In the high school and university summers I worked in union organizations. I have been very successful in not being involved with union organizations ever since, and I don't know of any financial service organization that is unionized.

**Mr Daigeler:** Obviously, from the way you spoke, you would see this as very detrimental to the financial sector.

**Mr Calder:** A threat, but I'm not going to argue the merits of being unionized or non-unionized; I'm here to tell you, and especially this table, the majority, that if you pass this law, people like me will leave. I don't know if that's good or bad, but I'm just telling you the fact; that's all. I create jobs. This is what I do. That's what I do. I will leave. That's what will happen.

I don't care if there are unions here or not. Because there are no walls here, I will decide to do business somewhere else. That's the only point of my message. I'm not here to argue the merits of unionization—I've seen all the movies—or the merits against that or things like that. There are pros and cons. I'm quite prepared to live with compromise.

**Mr Daigeler:** But do you feel that even in a North American context you will be free from the possible effort of your employees anywhere to unionize?

**Mr Calder:** Oh, no. I'll just go to the least aggressive place. We're free to do that in this day and age.

**Mr Daigeler:** Obviously, thankfully so. I should say, though, that certainly from my own perspective, and I think from my party's perspective, even though Mr Offer is the critic, it is not the direction that we are coming from. We see an important role for the work of unions, for people to organize, because they have proven their worth over time.

With regard to this particular legislation, we have very strong views—



**Mr Calder:** That's the issue at the table here, this legislation.

**Mr Daigeler:** You, I think, went a little bit beyond that.

**Mr Calder:** I think I'm practical enough that we're not going to repeal the old act and go the other way. The issue on the table is the existing act and which way we're going to go.

**Mr Daigeler:** This act certainly makes it easier, as you say, to unionize, and certainly the threat for you to leave would be much stronger under this legislation.

**Mr Calder:** And there's not just me. That's the point.

**The Chair:** Did you—no, Ms Fawcett wanted to too.

**Mrs Joan M. Fawcett (Northumberland):** Just a brief one?

**The Chair:** A long one.

**Mrs Fawcett:** Okay. I thank you for coming today, because I was interested in the fact that really you were learning new things about the legislation even as you sat listening. I think that is disturbing in that I wonder how many more people out there are like you in not being aware fully of the implications of this bill and the ramifications that it will have on people.

**Mr Calder:** I don't think most people would admit to the same naïveté I have about this bill.

**Mrs Fawcett:** That's true, but still the fact would remain that they're not as knowledgeable maybe as they should be.

**Mr Calder:** We've been successful so far in the environment we have today, so I'm quite happy with the law as it is today. The energy I put into this new law—it is a threatening law to people who create jobs. That's the message.

**Mrs Fawcett:** Well, you see, our time lines here are very short in that the government really wants this bill passed very quickly. It would seem to me that, if anything, we should be prolonging these hearings and getting as many people as possible. We have some 1,200 people who have made application to appear. Thank goodness you were one of the lucky ones who did get in, but there are a lot of other people out there, I think, who would like to voice their opinions, and we certainly would like to extend the hearings.

**Mr Calder:** Actually, I should mention that I am a member of the group Project Economic Growth. To my mind they have made proposals to have a more orderly approach to deciding whether this is good or bad for Ontario, as opposed to ramming it through.

**The Chair:** Mr Carr.

**Mr Carr:** I must say, Brendan, you didn't need to stand up to get our attention.

**Mr Calder:** Thank you.

**Mr Carr:** You've certainly got our attention here today. I'm going to look at a different area, not specifically your own organization and whether it's unionized or not unionized. As a lender, you may be aware of some of the

studies that are out there say we could lose 295,000 jobs. The government disputes it.

**Mr Calder:** I am aware of the Trust Company Association of Canada's stand on this legislation.

**Mr Carr:** If as a result of that we are to lose any more jobs—and I'm thinking in terms of being a lender, the economic activity. Of course you're a lender, somebody who is out there lending to people to get mortgages. In the present climate, if we lose any more jobs in Ontario—and as you know, the people in the trust companies, whether it be Royal or a lot of other ones, are facing severe problems, maybe because you're doing such a good job. If the economic climate gets any worse, what is going to happen to lenders like yourselves, like the Royals, like the banks?

**Mr Calder:** We'll stop lending. Remember, we finance the companies with our own money, but the money we lend, we lend in a fiduciary manner. We're only going to lend in jurisdictions that are vibrant. We're only going to lend to people who can afford to pay us back. Those people have jobs: no jobs, no ability to pay back.

**Mr Carr:** Having looked at the financial position of some of the trust companies now, it's fairly scary when you see some of the ones like Royal that were leaders and that are now going down. Again, this is a little bit off topic but it relates to the job losses. As you see it, how precarious is the financial situation in your industry right now of the lenders, of the trust companies? How close are we to facing very serious problems?

**Mr Calder:** I don't know and I'm not prepared to comment on that. Sorry.

**Mr Carr:** One last question. With regard to the certification process, you may be aware that right now under the existing legislation, if a union comes in to organize you and anybody in your company says, "I don't want it," and it does something, the penalty for that is automatic certification, regardless of whether one person wants it or 100.

**Mr Calder:** I read that.

**Mr Carr:** You're aware of that?

**Mr Calder:** Does that make it easier to get unionized, or less? I think it makes it easier to get unionized and therefore I'm against it.

**Mr Carr:** So in terms of your company right now, how do you handle employee relations? I take it you're a fairly flat organization.

**Mr Calder:** We have three layers in our organization and 209 people, and I know most of them.

**Mr Carr:** In terms of labour relations and dealing with the employees then, I just sense by your style that it's very hands-on.

**Mr Calder:** It is.

**Mr Carr:** So how much contact do you have with these 209 employees on a daily basis?

**Mr Calder:** I talk to all of them at least once a week live. I use a global voice mail service. They're all on voice mail all across Canada. I talk to them live and they talk to me on a voice mail system. The ones, of course, I'm physically close to I see every day.

**Mr Carr:** Because, as you may be aware, some of the groups that have appeared in here have painted a lot of business groups as being—

**Mr Calder:** The lady who sat here before me?

**Mr Carr:** Yes.

**Mr Calder:** Those people deserve unions, if they exist, the ones who still think they're running a coal mine with 12-year-olds. I mean, if they are, they deserve unions. I don't know that many that look like that. I just don't know; I haven't met them. Maybe they are. I don't know everything.

**Mr Carr:** Okay. Thank you very much for your help.

**Mr Ward:** If Bill 40 was never in place and we had the old act, which is still in existence, and your employees made the decision, for whatever reasons, to organize, you would leave.

**Mr Calder:** I didn't say that. No, I'm quite happy with the current act.

**Mr Ward:** Okay, but I thought you said if your employees made the decision to organize, you would leave.

**Mr Calder:** I did not say that. I said this act threatens me and organization would cause me—I would not work in a place where it's unionized.

**Mr Ward:** Okay, so under the existing act, if your employees decided to organize, which they have the right to, you wouldn't leave.

**Mr Calder:** I don't know.

**The Chair:** Fair enough.

**Mr Ward:** Okay.

**Mr Calder:** Do you understand? I'm not playing a word game with you. First of all, I think people deserve the unions they get, so I doubt that under the existing

organization law they would be. If they were to unionize us, I would resist that. Whether I left or not, whether we transferred jobs out of this province, would determine how many times we have picket lines that look like that. I don't want that; nobody wants that. But to paint that as a product of resisting the new act is at least a little too much.

**The Chair:** Thank you, Mr Calder. In excess of 1,200 people have requested to appear in front of the committee.

**Mr Calder:** I'm flattered.

**The Chair:** You should be flattered. As well, you're the first person representing your industry who's appeared here. You've obviously provoked a great deal of thought, hopefully, and certainly response from members of the committee. We thank you and First Line Trust for your attendance and for your interest. We trust you'll be keeping in touch. Take care, sir.

We're going to be in Thunder Bay on Monday. It will not be televised; we regret that. However, this being the process for this week, I want to thank the committee members, who have been very cooperative, and I appreciate that very much.

I want to thank the staff who have been here: Anne Anderson, who's with us right now, and her cohort, Avrum Fenson, both research officers from legislative research service, who do an outstanding job; from the office of the Clerk, Todd Decker, and the co-op student, Dave Augustyn, from Port Robinson Road West in Thorold, as a matter of fact; Clayton Hatfield; Pat Girouard from Hansard, and of course the French-language translation services and the legislative broadcast service, which continue to do a remarkably outstanding job. We are adjourned until Monday in Thunder Bay. Thank you kindly.

The committee adjourned at 1653.



**Clerk pro tem / Greffier par intérim:** Decker, Todd

**Staff / Personnel:**

Anderson, Anne, research officer, Legislative Research Service  
Fenson, Avrum, research officer, Legislative Research Service





## CONTENTS

Thursday 13 August 1992

<b>Labour Relations and Employment Statute Law Amendment Act, 1992, Bill 40</b> . . . . .	R-479
Canadian Paperworkers Union, Local 101 . . . . .	R-479
Gary Buccella, labour consultant . . . . .	
Rubber Association of Canada . . . . .	R-484
Brian James, president . . . . .	
Bryan DeMarchi, manager, industrial relations, Goodyear Canada Inc. . . . .	
Durham Region Manufacturers Association . . . . .	R-488
Desmond Newman, president, Cametoid Ltd . . . . .	
Automotive Parts Manufacturers' Association of Canada . . . . .	R-492
Neil De Koker, president . . . . .	
Tom Dattilo, president, Hayes-Dana . . . . .	
Gary M. Ferlecki, president, Hull-Thomson . . . . .	
Guelph Chamber of Commerce . . . . .	R-497
Robert J. Green, president . . . . .	
Robert A. Richardson, co-chair, labour reform committee . . . . .	
Vernon Yorgason . . . . .	R-501
Canadian Institute of Public Real Estate Companies . . . . .	R-505
Ronald Daniel, executive director . . . . .	
Ron Meiers, chairman, labour legislation committee; senior vice-president, Cambridge Shopping Centres Ltd . . . . .	
Cambridge Chamber of Commerce . . . . .	R-509
Hugh Ferguson, chair, government relations committee . . . . .	
Oshawa Group Ltd . . . . .	R-512
David Joffe, vice-president, industrial relations . . . . .	
Tim Carter, director, public affairs . . . . .	
Waterloo Regional Labour Council . . . . .	R-517
Tom Rooke, president . . . . .	
Sandra Ellis, executive board member . . . . .	
First Line Trust . . . . .	R-521
Brendan Calder, president . . . . .	

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \***Chair / Président:** Kormos, Peter (Welland-Thorold ND)
- \***Vice-Chair / Vice-Président:** Huget, Bob (Sarnia ND)
- Conway, Sean G. (Renfrew North/-Nord L)
- Dadamo, George (Windsor-Sandwich ND)
- Jordan, Leo (Lanark-Renfrew PC)
- \*Klopp, Paul (Huron ND)
- McGuinty, Dalton (Ottawa South/-Sud L)
- \*Murdock, Sharon (Sudbury ND)
- \*Offer, Steven (Mississauga North/-Nord L)
- Turnbull, David (York Mills PC)
- Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgianne ND)
- Wood, Len (Cochrane North/-Nord ND)

### Substitutions / Membres remplaçants:

- \*Carr, Gary (Oakville South/-Sud PC) for Mr Turnbull
- \*Daigeler, Hans (Nepean L) for Mr McGuinty
- \*Fawcett, Joan M. (Northumberland L) for Mr Conway
- \*Ferguson, Will, (Kitchener ND) for Mr Wood
- \*Fletcher, Derek (Guelph ND) for Mr Dadamo
- \*Ward, Brad (Brantford ND) for Mr Waters
- \*Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Jordan

\*In attendance / présents

*Continued overleaf*



## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Monday 17 August 1992

### Standing committee on resources development

Labour Relations and  
Employment Statute Law  
Amendment Act, 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Lundi 17 août 1992

### Comité permanent du développement des ressources

Loi de 1992 modifiant des lois  
en ce qui a trait aux relations  
de travail et à l'emploi



Chair: Peter Kormos  
Clerk pro tem: Todd Decker

Président : Peter Kormos  
Greffier par intérim : Todd Decker





### **Table of Contents**

Table of Contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

### **Index inquiries**

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### **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday 17 August 1992

The committee met at 1330 in the Valhalla Inn, Thunder Bay.

### LABOUR RELATIONS AND EMPLOYMENT STATUTE LAW AMENDMENT ACT, 1992 LOI DE 1992 MODIFIANT DES LOIS EN CE QUI A TRAIT AUX RELATIONS DE TRAVAIL ET À L'EMPLOI

Consideration of Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment / Loi modifiant certaines lois en ce qui a trait à la négociation collective et à l'emploi.

**The Chair (Mr Peter Kormos):** It's 1:30 and we're going to begin our series here in Thunder Bay, public hearings regarding Bill 40. Each participant has 30 minutes. I'm asking those people to please try to keep the last half of their half-hour for discussions between them and members of the committee. I want to invite people to come up to the front, everybody, including spectators, to pour themselves a coffee.

### THUNDER BAY AND DISTRICT LABOUR COUNCIL

**The Chair:** The first participant is the Thunder Bay and District Labour Council. Please come forward, seat yourselves in front of a microphone, tell us your names, your titles, if any, and tell us what you will; once again, trying to keep the last 15 minutes available for exchanges. If there are any written submissions, they've been distributed to the members of the committee and will form part of the record by virtue of becoming an exhibit. Go ahead, please.

**Mr Don Hutsul:** On behalf of the Thunder Bay and District Labour Council, we are pleased to be able to make this presentation and written submission to the standing committee on resources development. With me are Mike Poleck, Glen Chochia and Rob Caron.

We are here today to respond to Bill 40, the government's proposed amendments to the Labour Relations Act. This act and the proposed amendments are most important to our members and to our council. Our daily experience in representing and defending working people provides us with particular insight as to the merits of the key proposals Bill 40 speaks to.

The Thunder Bay and District Labour Council will try to give the members of the committee as balanced a view as possible as to what we support in the amendments, why we support it and where in our opinion the proposals are either incomplete or as yet inadequate.

Many business executives are complaining that the proposed changes are too radical, go too far, disrupt the status quo. The fact is, though, that they only appear to be radical. This reflects how badly out of date the law is.

When we analyse these proposed changes, we see that they are in fact remarkably moderate.

The purpose of the labour law is to set rules. Management and labour have been living together in the workplace at least since the Industrial Revolution. Before the introduction of labour laws, industrial relations were chaotic. It was a system based on anarchy.

Without a set of rules to go by, any confrontations were decided on the basis of strength. Sometimes the workers would win and expand their collective rights at work. Sometimes the employers would win and expand their rights of ownership at work. Either way, it soon became apparent that the energy spent on confrontation was not being spent on the production of goods and paycheques.

Laws were passed to regulate the rights and the responsibilities of employers and the rights and responsibilities of workers. Confrontations still occurred, but they were regulated confrontations.

One of the basic principles on which the rules are based is that individuals have the right to make choices. Workers can choose to join and be represented by a union.

This morning at 9 o'clock, on the newscast of a local radio station, the news media did a survey. The question posed to the public this morning was, should people be allowed to unionize? The response was 66% in favour; yes, they should be allowed to unionize.

This is the type of freedom upon which our society is based and for which members of our society have fought and died: the right of individuals to freely choose for themselves how they will act; the right of individuals to gather together and act as a group to collectively improve the conditions of each individual.

In theory, the current Labour Relations Act recognizes the right of workers to participate in collective bargaining. In reality, these are just words on paper. In practice, the current act is one of the most restrictive in Canada. Many individuals cannot even choose to participate. The decision is made for them by the current act. They can't.

Changing this is a matter of simple justice. Basic democratic rights that are available to most workers should not be denied to any workers. Part-time workers now make up a significant part of the workforce. Yet current Ontario Labour Relations Board laws deny them the right to choose a union. When they are certified, they become the object of intensive and expensive arguments about the bargaining unit to which they are allowed to belong.

The right to organize into the union of one's choice is a basic freedom. Freedom of choice does not end there. Once workers have been given the freedom to make one choice, others become available. They can choose the level of their wages. They can choose the conditions of their work. They can choose to become full partners in society.



Ninety-five per cent of all collective agreements in Ontario are settled peacefully. There is no strike. The union and management, working together, come to mutually agreeable terms. Only 5% of collective agreement negotiations end in a strike. In most of these cases, replacement workers are not hired. If the employer feels the need to continue production, he does so on a limited basis, using supervisory employees. The proposed amendments to the act will allow them to continue doing this.

The only employers that will be affected by the proposed changes are the very small minority who make a deliberate decision to be confrontational. The trouble that is caused by this small group of employers, however, is far out of proportion to their numbers. Disputes in which replacement workers are hired tend to be the most prolonged, the most visible and the most disruptive to affected communities.

Statistics show that replacement workers are most likely to be used in circumstances involving relatively unskilled and economically insecure workers. They are often women, visible minorities and other disadvantaged workers. They are often newly organized and trying to secure their first contract.

Legislation similar to this has had a positive effect in Quebec since it was passed in 1978. The Ministry of Labour reports from that province indicate a substantial decline in the number, length and hostility of labour disputes.

It is against the law for an employer to fire a worker because of participation in a union organizing campaign. Many employers do it anyway.

I'd like to introduce you to Rob Caron, who has some personal experiences in an organizing drive.

**Mr Rob Caron:** Last winter I looked into organizing a workplace. It was a commercial cleaner. I found that because of loopholes in the system, unionizing, even after discounting the hassles of getting people together to sign cards, those loopholes in the system made a union powerless.

On February 19, I was told by my supervisor that the client contracted to the company I was working for said that if union talk continued, the contract would be cancelled. My supervisor was told to fire all the people who were talking about unionizing. He managed to stall them for a couple of days. Two days later, on February 21, I received notice of layoff. Also, the day before I was laid off, I was talking to my supervisor and he told me of another contract that was terminated under the same circumstances. It was a commercial cleaning firm that was dismissed because of union talk.

Employers in this sector don't have to be fair. There are enough people out there who realize that sometimes this is the only work they're going to get, and many are resigned to that fact. Therefore, there's a very high turnover in this service sector.

I will give the floor back to Mr Hutsul.

**Mr Hutsul:** They know it takes an average of six months before an illegally discharged employee is reinstated by the labour board. In that time, the rest of the workforce will have been intimidated. The organizing drive will have been seriously damaged.

This time delay gives unscrupulous employers an opportunity to interfere with their employees' legal right to freely choose a union. When workers see their friends penalized without effective recourse, they are less likely to support an organizing campaign.

The proposed changes to the act will require the labour board to start hearing these unfair dismissal charges within a week or two and schedule hearings on consecutive days until completion. The decision would have to be issued promptly.

Employers may not use coercion, intimidation or undue influence to interfere with the employees' right to organize, nor, obviously, should they be able to take reprisals against those who exercise their own right.

Ladies and gentleman, let me tell you about two women who recently discussed the feasibility, the possibility, of getting a union in their workplace, during their lunch hour. The following day they were both fired. Fortunately, one of those women remortgaged her home, went to banks and other financial institutions so she could at least start up a small business of her own. Not all the fired workers who try to organize are so fortunate.

Union members contribute to society. They do not take; they give. They are the silent, unseen volunteers who make our communities healthier and happier place for ourselves and our families.

1340

Throughout this debate on changes to the labour laws, we should keep our focus on one central fact. Unions are not a social luxury. They can't be made available to people in times of economic prosperity and taken away during recessions. They are a social necessity. They are an essential piece of our community fabric. In good times and in bad times, they provide a service to all society.

In my presentation, if you look at the pink document in the back of it, there is an article that was published by the local press on Labour Day. I'll read part of it:

"It would be nice to say that labour organizations are no longer necessary because of the benevolence of various business owners and government. That is not the case. We all live a little bit better because of the labour movement. We salute the labour movement on a day and we say thank you for all they've done."

If you notice the little square box—it's in black print, bold—it says, "We owe much to the labour movement for the lifestyle we now enjoy today."

I must remind you, ladies and gentlemen, that this newspaper is also a member of our local chamber of commerce.

Improving collective bargaining and reducing industrial conflict: The use of scabs or replacement workers: This is the most controversial section of the proposed amendments. The use of scabs and possible prohibitions against the practice have been the subject of considerable debate since the introduction of anti-scab legislation in Quebec. Now the government's proposals move significantly in the direction of the Quebec legislation.

Such restrictions will only apply during a lawful strike or lockout. This must be authorized by a strike vote in which "at least 60% of those voting authorized the strike."

The passing of these amendments should eliminate the emotionally charged and hostile picket line confrontations of the past. Again, I'd like to refer you to the back of my presentation, the papers in blue and goldenrod, where this Thunder Bay and District Labour Council, along with various other unions, has for years requested anti-scab legislation, not only to the present government but the governments prior to it. Basically, for over 40 years we've been asking for these changes and we have yet to see them.

From the last document of my exhibit, even though it happened in the United States, you can see where the contractors hired non-union personnel. You can see the damage that was created: \$1.3 million in damage. Ladies and gentlemen, that could very easily happen in this country. It has happened in other provinces. That's one reason we want anti-scab legislation.

Regrettably, a significant change between the Ministry of Labour's discussion paper of November 1991 and Bill 40 is that non-bargaining unit employees who normally work at a struck location will be able to perform the work of striking employees. This represents a retreat from the position advocated in the MOL's discussion paper and a setback for those of us struggling to maintain and improve the living standards of working people. Admittedly, these employees have the right to refuse such work, but even here the employer is not required to advise such employees of their rights.

In closing, I also want to bring to the attention of the members here today that recently on a local one-hour talk show, we had Mr Signoretti, executive vice-president of the Ontario Federation of Labour, in a debate with a Mr Pat Gamble, who belongs to the coalition of construction associations. It's televised for one hour and viewed by thousands of people locally. At one point in time, when Mr Pat Gamble was asked, "Do you not think that labour should get some of these changes?" he sat back, looked right into the TV camera and said, "Well, I guess it is labour's turn."

**The Chair:** I want to remind people that there's simultaneous translation available to people. The devices are at the back of the room along with headsets, and people are invited to take advantage of those if they wish.

**Mrs Lyn McLeod (Leader of the Opposition):** Don, I want to begin my question by saying that in our minds this is not a debate about the right to unionize. Surely that is a given, it has been a given for some time, and I'm actually a little bit surprised that a survey would show only 66% of the people in support of and recognizing that that right exists and should exist.

The concerns we're raising are specifically about the proposed changes in this legislation, so I'd like to focus on those and, again, take the right to unionize and the strengths of the labour union movement as a given.

Don, one of the concerns that I have, particularly in this location, is looking at our unemployment figures having gone up a full 1% in the previous month when the rest of the province is holding. I know that's a concern you share and the labour council shares: the unemployment level in this city.

If this legislation, in fact, had an impact causing more people to be out of work, would that not be a concern for the labour council?

**Mr Hutsul:** One of our present concerns, I guess, if I can direct the question more or less along the line of the Economic Development Corp, which has a mandate basically to acquire business from Hong Kong. I've seen three businesses from Hong Kong set up here. I've seen those three businesses also disappear, move on to another province. I guess once they suck this province dry of funding, provincially and probably federally, they go to another province and pursue the same avenue. This is probably one of the reasons why we have a 1% increase in unemployment locally.

**Mrs McLeod:** Again coming back to this legislation particularly, one of the concerns we keep raising is, what effect will it have on jobs across the province? That has to be a concern for all of us. I wonder whether or not the government has provided any evidence in your mind that this will not cause a job loss.

A number of studies have been done that suggest the legislation could cause significant loss of jobs across the province. I know the government does not believe that to be the case, but do you feel there has been evidence given that it will not cause that job loss, and do you know of a reason why those kinds of studies would not have been done so that perhaps some of the potential loss of jobs could be offset?

**Mr Hutsul:** I don't know why studies would not be done, but if we look locally, we do have a major employer who pays very comparable wages and benefits to the employees. They are non-unionized. That place has not closed up. That place will not close up. They will stay. The employees there are quite happy with the wages and benefits they get. Therefore there's no reason for them to unionize.

**Mr Steven Offer (Mississauga North):** I'll continue. Thank you for your presentation. I would like to talk about a particular aspect of the presentation found on page 3. You say on page 3, "Basic democratic rights that are available to most workers should not be denied to any workers." I think we would all agree with that. Then you go on to say that "Part-time workers now make up a significant part of the workforce." I think we would all agree with that.

I'd like to get your comments on this. Under the legislation dealing with the issue of part-time and full-time workers who are in separate units, if there is a situation in which, for instance, there are 100 workers of whom 55 are full-time and 45 are part-time and there is a vote, and all of the full-time say yes, we want to be combined with the part-time, and none of the part-time wish to be combined with the full-time, then under the legislation those men and women who form the part-time unit and do not wish to be combined with the full-time unit, are combined.

I would like to get your thought as to whether that is, in your opinion, continuing or taking away from the basic democratic right that all workers should have, which I agree with.

**Mr Hutsul:** I guess a basic democratic right is a privilege to have in this country. If we look at the freedom of



choice to vote your opposition or a concurrence to any item of concern, I guess I'd like to make reference to our House of Commons where I suppose everybody has a choice to make there if you have a free vote. I haven't seen it happen there yet, and it's classified as a democratic right.

1350

**The Chair:** Thank you. Mr Jackson, if you want to leave Mr Tilson some time, please feel free.

**Mr Cameron Jackson (Burlington South):** Mr Tilson will start.

**Mr David Tilson (Dufferin-Peel):** Just listening to your comments on replacement workers and your comments throughout your paper, specifically page 4, I believe, suggests that the banning of replacement workers during a strike would help to make labour relations less confrontational. Isn't the whole concept of a strike confrontational? When you have a strike, that's confrontational.

**Mr Hutsul:** It's a civilized form of confrontation.

**Mr Tilson:** Are you serious?

**Mr Hutsul:** I suppose if you hire replacement workers to run trucks through the picket line with total disregard for human life and limb, you are going to have confrontation instigated, naturally, by replacement workers. We've seen it across Canada; we've seen it in this province.

**Mr Tilson:** What I'm looking at is the whole concept of fairness, of whether one side is right and one side is wrong. Generally both sides are right and both sides are wrong in many of the situations.

If there is a strike, depending on the type of industry, the purpose of the strike, of course, is to inflict some sort of economic harm on that specific industry. In many cases, in many industries, if those industries can't continue they'll have to close down. In many of those industries they'll never survive, they'll never get back on their feet again, depending on how long the strike is, unless there's a complete capitulation to the union's demands.

Your comments—and the Premier has made similar comments—are that the purpose of this provision to ban replacement workers is to make the whole system less confrontational. I suggest to you that the whole system is in an adversarial position, it's a very fine balance, and the union and the business must work together to make the whole system work or we won't have any jobs. If you put too much of a balance in favour of the business or if you put too much of a balance in favour of the union, the whole system will collapse. The allegation that's been made is that the balance has been tipped too much in favour of the union. Many businesses that have come to this committee have simply said they won't be able to survive. The newspaper business is a typical example; they'll just have to close down. Either they'll have to close down or there'll have to be a complete capitulation.

I'd like you to comment on that system. How are we going to make a fair system where there's an equal balance between the two groups when you have an amendment such as this?

**Mr Hutsul:** In any strike or lockout, both sides in that dispute stand to lose. The worker stands to lose; to some

degree, the employer stands to lose. Employers are dictated to by a board of directors; in some cases a smaller company by the president, local or owner.

When the workers feel the pinch, they re-evaluate the last proposals, a vote is taken and they go back to work. We didn't succeed this time. Hopefully, at the next contract proposals we will bring forward some of these existing proposals we couldn't get this time. Hopefully, next time we can get it.

On the other end of the spectrum, when an employer locks out his employees, you can bet your boots that he's going to keep them out as long as he can, whether it's six months, seven months or eight months, especially if there's a downsizing in the economy, the sales have gone and there's nobody to buy his product. I've seen it happen. We've all seen it happen in this province, in northwestern Ontario, where the employer has locked out the employees for over six months.

**Mr Bob Huget (Sarnia):** Thank you for your presentation. I want to touch a bit on the issue of balance and fairness in following up on Mr Tilson's question. I think it's fair to say that opponents of this legislation have said from the outset that any changes to the Labour Relations Act and any modernization to the act is going to shift a very delicate balance, in an act they consider to be balanced now between workers and employers. As far as the government is concerned, I think we are changing the act here in terms of 15 years of it not being changed, changes that are necessary for a changing workforce and workplace and a sincere attempt to reduce picket line violence and confrontation.

Still, there are the allegations from people who oppose changes to this act that it'll do a number of things, all of them negative. It will discourage investment, even though there are countries in this world that have very strong union participation, very strong labour participation, and they're enjoying some of the best economic times they've ever experienced. There's also the allegation, and it's a continuous one, that this will shift the balance. There is a balanced system now. It's not broke; don't fix it.

I guess what I'd like from you is your view of the act. Do you feel that the act is currently a balance between workers and employers?

**Mr Hutsul:** Even with the introduction of some of this legislation, there is no balance of power to the organized or labour. There never has been a balance of power to the workers of Ontario. We don't expect, nor do we want, the balance of power in this province. It would be asinine to think we want that power.

**Mr Huget:** Is the current act unfair, in your view, and if it is, what parts of the act are unfair?

**Mr Hutsul:** Basically the current act needs updating. Historically we've requested updating for a number of years and gotten very little. I guess maybe Glen Chochia could expand on some of the parts of the act.

**Mr Glen Chochia:** Yes. If I might just refer back to one of the questions that came from the right side of the room earlier, one part of the act that needs to be looked at and was looked at is full-time and part-time bargaining

units. It's really some kind of a historical fragment from almost antiquity that we have this notion that there's some kind of a distinction in interests between full-time and part-time workers. The reality is that full-time and part-time workers have a lot in common, and if there's a vote and they decide that they want to have one bargaining unit, they should have that right.

The premise that underlaid the question earlier was that full-time workers will all vote or may all vote in favour of amalgamating bargaining units and part-time workers will not. That's a hypothetical, really, that has no basis in truth. The reality is that most full-time will vote in favour and most part-time will vote in favour. Some will, some won't, and it'll be a mixture. That's one area where working people I think can expect some good changes. The distinction between full- and part-time workers is one area where there's going to be a lot of improvement.

Another area, first-contract situations: One of the things working people can look forward to, if they decide to unionize, is in first-contract situations not having to go through prolonged labour stoppages, labour disputes. There's going to be an automatic right to first-contract arbitration if you've been in a legal lockout or a legal strike situation for 30 days. Either the employer or the workers in the union can request that. That just adds an air of civility to what really in the past has been—we've seen some very, very bitter disputes in first-contract situations that quite frankly scare the hell out of working people when they sit down and even begin to think about forming a union.

The whole thrust of this has to be freedom of choice. If you want a union, great; form a union and have the freedom and make it voluntary. But the way it is right now, it's terrifying, especially in these economic times, to even think about joining a union.

**The Chair:** Thank you, and thank you to Glen Chochia, Don Hutsul, Rob Caron and Mike Poleck for being here and speaking on behalf of the Thunder Bay and District Labour Council. We appreciate your taking the time out of your schedules to participate in this process. You've made a valuable contribution. I trust you'll be keeping in touch. Take care.

1400

#### THUNDER BAY CHAMBER OF COMMERCE

**The Chair:** The next participant is the Thunder Bay Chamber of Commerce, if the people appearing on behalf of that organization would come forward, seat themselves, tell us what their names are and their titles, if any, proceed with their submissions and try to save the last 15 minutes of their half-hour for exchanges. Go ahead, please.

**Mr Jack Mallon:** Good afternoon. I'd like to introduce our volunteer team from the Thunder Bay Chamber of Commerce, and I want to welcome all you people to Thunder Bay. It's always good to see visitors. I have with me Garth O'Neill, Kim Randell, John Erickson, Lorne Fuman and our executive director, Rebecca Johnson. John, who is a fellow director of the Thunder Bay Chamber of Commerce, will be spearheading this presentation, of which I think you have copies in front of you.

I want to say a few things. We have, as small business in the Thunder Bay Chamber of Commerce, 900 business members. We're very proud of that. We find that 80% of our members have less than 10 employees, and therefore they're looking with a whole lot of curiosity as to what the impact of this is. I think that's one of the biggest challenges we have, the unknown of this labour reform.

I think that if labour reform—I'm talking personally now—has not been looked at for 15 years, that's a shame. I think it's one of those kinds of things that have to be ongoing, but unfortunately it seems to be coming quite quickly, and that has got to be a concern.

I'll pass it over to John Erickson, who will give our presentation.

**Mr John Erickson:** About eight months ago we were here in this same hotel when the Minister of Labour came to Thunder Bay and made his announcement about the bill that was going to be proposed in the Ontario Legislature. As you recall, what he said that bill would do would be to create or bring in a new era of harmony and cooperation between labour and management.

The minister was kind enough to meet with us at that time; I believe it was on January 6. We were the first business presentation during his consultation process. He made certain assurances to us that anything we wished to say which was meaningful, he would listen to, and that he'd be back to us in due course.

Unfortunately, when we look at what has happened since then, one or two things have become very apparent. Rather than a new era of harmony and cooperation between the partners who are directly affected by this legislation, we have, in our respectful opinion, a confrontation in this province between business and the government at the very time when the economy of the province is in need of a rescue mission.

What about the promise the minister made to us that the government would listen carefully to our proposals?

Within a matter of weeks following our presentation in January, information started to appear in the press from the minister and other ministers of the crown. You've heard them all. Businesses which dared to oppose the amendments to the legislation were scaremongers. Businesses which dared to express their views with respect to how this legislation would affect them were accused of using scare tactics. In the local media, Mr Hutsul and others accused us of passing around misinformation with respect to the effect we saw from this legislation.

In our view, the chamber of commerce has always been consistent in its position with respect to the proposed amendments. In order to understand our position, you have to start with some of the comments Jack made with respect to the typical chamber member.

Nearly 80% of our members are owner-managers of a business which employs 10 people or less. We're the very businesses Mr Jackson was talking about. The vast majority of our members are in the retail and service sector. They are non-union and have invested their life savings in their businesses. Most of our members feel that they already are over-regulated by various government programs such as the health



tax, pay equity, proposed employment equity legislation, workers' compensation, employment standards and so on.

Superimposed on all of this is the economic reality of Ontario today. The economy is clearly in recession. Thunder Bay is in effect a border town and our retail and service sector is being buffeted by the effects of out-shopping. Those in the retail and service sector have found that credit availability has deteriorated by virtue of bank policies—their lines of credit are being pinched back—and we find that the profit margins of our members in the retail and service sector have all but disappeared.

In our view, this whole issue boils down to business confidence. We know what that means in business. Does the retail and service sector have enough confidence in the economy in Ontario today to spend that extra dollar to buy new equipment, to create new jobs? These are the people who run small business. These are the people who can help get the economy going.

In our submission to Minister Mackenzie in January of this year, we made the following points which we continue to believe are valid:

Most importantly—we want to underline this—we said that it was not inappropriate for the minister to spearhead reform to the Labour Relations Act. We have never said otherwise. Anyone who has had the opportunity to be part of the collective bargaining process, especially in front of the Ontario Labour Relations Board, would support that. We could speak for hours on the need for reform in that area. We did say, however, that it was the wrong policy at the wrong time, given the current economic recession in Ontario.

We told the minister, and we continue to tell the government, that as far as our member business people are concerned, the issue is an issue of business confidence. In that regard, we told the minister, and we tell you here today, that harmony and trust are issues that are earned through mutual understanding and you cannot by fiat dictate them to the business community.

The policy of this government has been seen and continues to be seen by our members as intrusive in terms of management decisions. It was our considered opinion at that time that because of the lack of confidence our members had in this type of legislation, they would be affected in their business decisions. We said then and we say today that any legislation which may have an economic impact on the bottom line should at least have an economic impact study from the government before it proposes to move forward.

Most importantly, we said that there should be more time available to us to move forward together and have a real consultation process, where business would have some real input.

We continue today to be concerned about the tinkering with what we describe as the power relationship between labour and management, because, respectfully, in our view this legislation is aimed clearly at the retail and service sector which comprises nearly 80% of our membership. We are concerned that this legislation erodes the rights of workers. It certainly erodes proprietary interests of third-party property owners. We are concerned that the minister's legislation creates an economic mismatch in terms of

the effect that replacement worker provisions would have with respect to our small business members.

We have surveyed our members extensively and they have told us the following:

When they were asked what effect Bill 40 would have on their future investment plans, a number of responses came forward. I'll read some of them to you. We sent out a general mailing to our membership approximately one week ago. Fairly, I can tell you some people said there would be no impact and some said they didn't know anything about the legislation, but here's what most of them said. For example:

"Our investment in this environment will become more risky, and thus less economically favourable. We will reduce our investments." Another said, "We will immediately halt our expansion plans." Another said: "Future viability is our concern. Again, in any situation where labour can shut your business down with absolutely no fear of losing their jobs, business will be reluctant to invest." Another said he or she would not expand, only to be held hostage. Another said, "We will take our investments out of the province or country."

Our members, ladies and gentlemen, do not understand why their employees should not be entitled to a secret ballot prior to certification in all situations. Our members do not understand why there cannot continue to be a right to petition during the organizing period or at least a so-called cooling-off period. Our members do not understand why certification is being made easier by a reduction in the percentages necessary to hold a vote. They do not understand why first-contract negotiations will, in all likelihood, end up with recourse to the Ontario Labour Relations Board. They are of the view—and I underline this—that they will be literally forced to dance to the union's tune during contract negotiations or be forced to close during a strike.

1410

This issue, for the small business man, is economic survival. The small businessman and businesswoman cannot afford to close down for any extended length of time. They're very concerned about that issue. They do not understand why organizing and picketing will now be allowed in malls and shopping centres, due to the mischief which they feel this will create.

When you cut through all this, it gets down to an issue of perception. We could stay here and debate the particular parts of Bill 40 ad nauseam. If business perceives that the bill is wrong, then it's bad legislation as far as business is concerned. What they would like to have is a consultation process where they can be made to feel comfortable with the amendments as they come forward from government.

Our concerns are that our chamber members will not invest their dollars in this community, which means they won't create the jobs that are necessary in the city of Thunder Bay. At a time when government and business should work together, this government, respectfully, appears to have alienated business. Rather than the era of goodwill and harmony, we now have a confrontation between government and business that we haven't seen for years in the province of Ontario.

It's fair to ask what should be done. We say the bill should be pulled back for better consultation and input from business. We have never said it is not appropriate for the government to propose reform. We say there should be a truly meaningful process that deals with the important issues between labour and business. We are absolutely convinced that this province cannot go forward without partnership between management and labour. We have to find a way to do it.

We say to this government, please stop tinkering with economic power positions and playing social engineer. Please listen to the voice of business, which really wants to be a partner in a truly meaningful way.

**Mr Jackson:** Thank you for the presentation from your group. I come from Hamilton; it's a labour town. If Stelco goes on strike, Stelco can stockpile a whole lot of steel and move it to an outside location, and all the workers are happy because they get tons of overtime up to and including that time when they go on strike. But it strikes me that there are certain commodities that this is not good for. We've heard from the newspaper industry that news is instantaneous and it's stale; you can't stockpile news, and there are certain foods.

The last time I was in Thunder Bay—or my second previous time—there was a strike on with the grain handlers. Have you had any analysis of how this legislation would overlay the economic activities of this community to determine just exactly how the changes in this legislation might, for example, hold up the grain elevators, hold up any number of activities where the commodity is not stockpiled but in fact has broader implications because work has to stop for a whole lot of people when one small group decides work should stop?

**Mr Erickson:** I can tell you, Mr Jackson, we don't have any analysis and one of the difficulties in dealing with that issue is that we have federal jurisdiction on the waterfront with respect to grain workers. However, if I can use the word "analysis," certainly our members—and that's who we listen to—are of the view that if they are incapable of employing replacement workers, the economic downside to that position for them may be terminal. That has been said to us over and over again. I think it's fairly easy to flesh out the situation where the bargaining committee for the union and the employer are sitting at the table. The employer absolutely knows there's virtually no way he can take a strike.

**Mr Jackson:** Very quickly, because Mr Tilson has a question, don't you think it's a rather naïve view to expect—in principle any government listens, but in specifics—that this government will listen to the concerns of business when in fact we know there has been some tradeoff with the Sunday shopping legislation, which I was in town for last doing public hearings. I know there's considerable support.

The betrayal of retail workers represents a plus to a large number of people in the business sector, but it represents a negative to a lot of retail workers. My family's all in retail, so I know how strongly they'll feel about it: that it is a rather overt betrayal of retail workers and this legislation will somehow undo that damage and it's an unstoppable event.

**Mr Erickson:** We don't come here with any strong, positive view that we're going to make a difference to what this government wants to do. I can tell you that candidly.

**Mr Tilson:** Your comment about the lack of studies by the government—when this bill was introduced there were actually members on the government side who were weeping, they were so enthralled with this legislation, because there's no question this is one of the biggest pieces of legislation being put forward by this government.

When I listen to the remarks you've made about your members as to what's going to happen to them or what they feel is going to happen to them, when you hear the statistics of at least one study that's been done by Ernst and Young that talks about \$8 million in lack of investment, I believe—sorry, \$8 billion, almost \$9 billion in lack of investment and almost 300,000 lost jobs—in your discussions with the government representatives, do you believe the changes are really trying to solve a problem, or is it more political? Is it trying to appease the union leaders as opposed to assisting the general worker?

**Mr Erickson:** I can answer that in this way: We don't understand, quite frankly, why the government refused to conduct its own economic impact studies. We would have thought that would have been an initial first step, and a welcome one from business, so that the case can be made.

Our members, in the initial return from our mailout that went out last week, are talking about delaying hundreds of thousands, if not millions, of dollars of investment. It's not so much the fact that everything's wrong with the proposed amendments. As I said earlier, there's a perception out there that these are going to be damaging to investment and to the business community. Once that perception takes hold, it's just like politics. Those kinds of perceptions affect investment decisions. That's well under way and regrettably I'm not sure it can be turned around right now.

That's why we say move the bill back a bit, let's have a better consultation process. If there are things that are good about it, business ought to say so, but in the climate that's been created by this government, this confrontational climate, we feel the ultimate effect is going to be negative for the economy of Ontario.

1420

**Mr Will Ferguson (Kitchener):** I just want to take this opportunity first to clear up two pieces of misinformation. In the first one the newspaper article that I believe came out Saturday states that automatic certification is guaranteed without a vote if the union obtains membership cards from 50% plus one of the employee group. In fact that's not correct. Even though many trade unions have told us they weren't happy, that has remained at 55%, and of course that's at the request of the business community.

The second piece of misinformation that I want to clear up is that on page 6 of the document the chamber stated in its brief that it doesn't understand why organizing will now be allowed on third-party property. In fact even though some of the trade unions were most upset that this provision was not changed, at the request of the business community during the consultation period we decided that



we would not permit organizing on third-party property. So the information we heard here today is simply not correct.

I want to ask the question, first of all, how many surveys were sent out by the chamber and how many responses it received back, and perhaps it could leave with the committee a little more information than what has been tabled to date. Because if we're going to try to put this in perspective, and you look at the 200,000-plus employers across the province of Ontario, what we did as a government was we went out and we talked to the 94 who had work stoppages during the entire year of 1991 and out of that 94, 19 said they would be affected in some way if they had to operate at that time under this proposed legislation. Out of that 19, only five used replacement workers.

So I think it's important that we not only hear that there are some people who aren't happy here in Thunder Bay, and some people in the business community aren't happy with what's being proposed, but I think it's important that we hear the number of respondents to the survey and we get an actual copy of the survey so we have firsthand knowledge of what was asked and not only who was asked.

**Mr Erickson:** Sir, I'm not sure where the misinformation came about 50% plus one, because I wasn't part of that and I'm not sure what you're referring to. The one thing I can tell you is that we didn't come here today to give you a statistical buzz. We came here to tell you what we earnestly feel our members say. The facts are, sir, that our members are afraid of this legislation. If your government would do something about that, you might get a much different response from us. Those are the facts.

**Mr Ferguson:** I take exception to the suggestion that we're not talking. In fact, we have made significant changes from the consultation document to now. We've backed off on 10 key areas. When you look at the number of people we have consulted with and talked to and obviously listened to over the last number of months on this proposed piece of legislation, we have consulted with more people on this proposed piece of legislation than many other governments have on their entire legislative bill.

We have heard from over 350 groups, 447 submissions. I think it's important, though, that we do know how many people responded to your survey. I mean, you are sitting here saying you're representing your particular community and I'd be vitally interested to know what was asked, how many people responded. I think that kind of information is important before we make a final determination on the bill.

**Mr Erickson:** Absolutely. The one thing we will assure each and every one of the members of the committee of is that once we put the final tabulation together—the results are still coming in—we'd be happy to make it available to each one of you. Absolutely. The only reason we did it was to try to gain some impression from our members as to the kinds of things that concern them.

Again, I wish to underline something: We don't necessarily say that all those members' concerns are entirely valid. These are feelings businessmen have. Please let me get back to that point. These feelings affect business investment decisions. We think there's a way to put reform

forward under the Labour Relations Act; we just don't think it's been done correctly to this point. We would be happy to be involved in that process.

**The Chair:** Thank you. We've got to move on to Mrs McLeod.

**Mrs McLeod:** I would just like to make a further local comment on the question Mr Jackson raised before deferring to a question from my colleague. Mr Jackson, in asking about the local impact of the legislation, raised grain handling, but one of our major employers here is the pulp and paper industry. We'll be hearing from them later in the afternoon.

I think it's a reality people know. The pulp and paper industry is unionized on the surface of it. This legislation might not seem to have a direct impact on them, but I think everybody knows that the pulp and paper industries in this community and elsewhere in the north are literally hanging on a thread and a hope and a prayer that the economy is going to start to improve.

If this legislation has the effect on retail and tourism sectors that the chamber has described, the domino effect on the pulp and paper industry would be absolutely devastating, and that has to be a concern for this community. It's that domino effect that's one of the aspects of concern we're trying to draw out in these hearings.

Thanks, Mr Chairman. I'll defer to my colleague.

**Mr Offer:** Thank you for your presentation. I noted in the first part of your presentation that you're concerned about being branded as scaremongers or as using scare tactics because you had some concerns with the legislation. I think you should be aware that as we're now starting our third week of hearings, we have heard concerns about the legislation not just from the so-called business community but indeed from groups and associations such as the Ontario Association of Children's Aid Societies, school boards, municipalities and municipal hydro services. The concerns that we are hearing on different aspects of the legislation are not just from the business community but from a broad variety of people who are very concerned.

My question deals with that part of your submission that talks about the private property. It's important to indicate that I noted Mr Ferguson's comment that it doesn't apply to organizing; I disagree with that. There is no question that subsection 11.1(2) of the legislation clearly indicates that there is a right of access with respect to organization, and subsection 11.1(3) talks about a right of access with respect to picketing, so it does have the impact that was indicated. I think he was referring to a newspaper article.

We have asked questions on what is, for want of better words, picketing on private property; this does not apply just to the malls. That's what the press releases want one to believe, but it has a much broader application. For instance, large department stores nowadays license out aspects of the department store either to a cafeteria, to a travel agency, to a photo operation, to hair salons; I think we all know what we're talking about. The wording of this legislation would allow picketing and organizing within the

department store in front of a cafeteria if that were the subject of the organizing drive.

As you've brought out the aspect of small business and business, what is the impact that this would have in terms of the retail sector?

**Mr Erickson:** Perhaps I can respond to one or two things you said, Mr Offer. I suppose there may be a valid difference of opinion between Mr Ferguson and me, but I'm reading the draft bill that I have, and it says, "Employees and representatives of a trade union have the right to be present on premises described in subsection (1)." That refers to premises where the public normally has access. If I'm incorrect in that, I apologize. If you have a different interpretation, you're one of the first people I've met that does.

In any event, Mr Offer, we can only go on the feelings our particular members have. They are concerned that within the example you used, an apartment building within a shopping mall, or perhaps some other type of building we haven't directed our attention to, that two things will happen. First, innocent businesses which may be part of that mall, which may be part of that apartment building, will be affected. The element of mischief which can be created by allowing picketing at entrances and exits, in our view, is something that has to be carefully looked at.

Again, their impressions are that with the replacement worker provisions and the right to go on to what used to be third-party private property, the effect will be to shut them down. That's how they see it, purely and simply. They don't feel they have the economic clout of Canadian Pacific to stockpile their type of services or the goods they produce. They survive from day to day. Every day they lose with respect to revenues that go into their coffers to help them employ people and to provide the service that they do provide to the community is something they can't recover from. They don't have shareholders out there infusing capital. Their life savings are in these particular businesses and they see this as something that has loaded the economic gun in favour of unions, totally and simply.

**The Chair:** Thank you to the Thunder Bay Chamber of Commerce for coming here this afternoon and presenting its views. We appreciate your interest and trust you'll be keeping in touch with members of the committee or other members of the Legislative Assembly.

1430

#### CANADIAN UNION OF PUBLIC EMPLOYEES, LAKEHEAD AND DISTRICT COUNCIL

**The Chair:** The next participant is the Canadian Union of Public Employees, Lakehead area office. Please come forward, seat yourselves and tell us your names and titles. Then we can proceed with your submission.

**Mr Barry Chezick:** My name is Barry Chezick. I'm the president of the Lakehead and District Council.

**Mr Howard Matthews:** My name is Howard Matthews. I'm a national representative of CUPE. I think you've all been provided with a copy of our brief, which we're going to go through. On the bottom right-hand side of the front page you'll see our names. Mr Tupker is

president of the largest CUPE local in this region, the city of Thunder Bay employees, mainly. Mr Chezick is president of the Lakehead and District Council of CUPE, and as I said, I'm a national representative.

We wish to thank the committee for the opportunity to address this important legislative bill. We're here representing the 4,000 CUPE members in northwestern Ontario. The Lakehead and District Council is a subdivision of the Ontario division of CUPE, which has 165,000 members, and that in turn is a division of CUPE national, which has over 400,000 members.

We have a few global comments we wish to make to the committee and then we have some examples from our area regarding why these changes are necessary and in some instances, in our submission, don't go far enough.

The union's place in a democratic society, which is essentially what we're talking about here: Anyone who truly believes in democracy understands both the right of unions to exist and the need for unions, especially in a modern, industrial society. This statement seems almost trite today. However, it's only half a century ago that these principles were embodied in the laws of the province, in the Labour Relations Act.

These democratic principles gained acceptance only after more than a century of struggle and sacrifice by working people in this country and around the world. They evolved out of a recognition that an individual worker is no match for wealthy capitalists or large corporations. Labour relations laws brought an end to the unacceptable exploitation of workers. They're a fundamental cornerstone of the social contract in Canada, as well as any other democratic country in the world.

If you look at the social contract that makes all of the different groups in a society willing and accepting participants in that society—that's the way we view a social contract—that's what we're really talking about when we talk about the Labour Relations Act.

The existing Labour Relations Act states the following: "Whereas it is in the public interest of the province of Ontario to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between employers and trade unions as the freely designated representatives of employees...." That's from the preamble of the act.

It's the basic right of every employee in Canada, and in any free democratic society in the western world, to belong to a union and participate in collective bargaining. Nowhere in the Labour Relations Act does it state:

"Of course the employer shall have the right to use every means at his disposal, both legal and illegal, to prevent employees from exercising their right to belong to a union. This shall include threats to move to Mexico, to shut down the plant, firing union activists, fragmenting the membership by keeping part-time and full-time in separate bargaining units, forcing an unwanted strike and then using scabs in order to bust the union,"—and we've seen examples of that—"contracting out work for the purpose of undermining the union or simply organizing their operations in such a way as to make union organizing impossible."



That's a phenomenon that has occurred throughout the 1970s and 1980s and into the 1990s and is really one of the key things that gives rise to the need for changes to the Labour Relations Act.

Again, the foregoing sounds trite, because anyone who claims to believe in democracy would not support any of these actions. It is here stated because these are exactly the kind of employer "rights"—we say "rights" in quotation marks—that the business lobby is aiming to protect with its vicious campaign to discredit this bill. The fundamental premise underlying the business campaign is that they do not accept the right of employees to be organized and to belong to a union. It's undemocratic in the extreme.

One of the complaints we've heard over and over is that this will make it easier for employees to be organized. Now, if you look at that statement, implicit in it is that in some places now it's harder for some employees to organize. What kinds of things make it harder? Those are the kinds of things we listed in our mock section that's not included in the act. If it is possible to make it easier for some employees to unionize, why shouldn't that be done if that's their democratic right?

Does anyone seriously believe that department store workers or bank workers or fast-food restaurant employees are not organized because they do not want to be organized? They're not organized because their employers have used every device, both legal and illegal, to deny them their democratic rights. These are the employers the business lobby seeks to protect.

Mr Erickson, whom I met for the first time last week and liked, quite frankly, suggested that a big part of the problem here is perceptions within his constituency, perceptions of businesses around the community. Who's responsible for those perceptions? Since the very first day that these labour law changes were discussed by an NDP government in this province there has been an absolutely vicious misinformation campaign carried on by a big business lobby in this province. What that lobby is aiming to protect, in our view, is the bad employers, not the good employers like the pulp and paper industries in northwestern Ontario.

Is the business lobby position in the interests of business, we ask? Unions have only had broad acceptance since the Second World War. Coincidentally, this period of time has been far and away the most productive period in our history. This is no accident. The fact that workers have had decent incomes has meant money to purchase goods and services. Decent incomes mean markets right here at home. Even Henry Ford understood the benefits of paying your workers enough so that they're able to afford to purchase the goods or services they produce. We wonder how many fast-food restaurant workers can afford to take their families to the restaurant they work at.

The primary industries in northwestern Ontario are heavily unionized. Business, and especially small business, has prospered here because of the fair wages that unions have negotiated for their members.

When we negotiate a wage increase for our membership, the direct result is an increase in business, and therefore profits for businesses in our community—again,

especially small businesses. When our members don't get a fair wage increase, the first place they cut back on spending is in optional purchases, the kind of spending cutback that hurts small business. Ironically, two of the sectors hardest hit are the fast-food and retail sectors, both of which are viciously opposing this legislation.

1440

Why does this occur? The ideal for each business in our economic structure is to have low costs and the highest prices possible. The more purchasing power there is in the community, in other words the better everybody else pays their employees, the better it will be for your business. Individual businesses can't control what everyone else is doing, however, so they end up focusing on what they themselves can control, which means costs. When every business, and the government for that matter, focuses on cost the result is less purchasing power. Less purchasing power means fewer sales for business and less revenue for government. This results in even more focus on costs, and the spiral is complete. This is exactly the kind of spiral that right-wing economics, the kind of economics preached by the same business lobby, have pushed us into at the present time. If purchasing power is insufficient, then productive capacity is underutilized. This is the scenario for recession-depression.

The whole focus of all the comments from the federal government for the last eight years, and the business community for that matter, has been exclusively on controlling costs. What's emerging, and the key cause of recessions or depressions, is a drain on purchasing power in the community. When there's not enough purchasing power to match productive capacity, then we end up with companies producing at 60% and 50% and downwards it goes, and the less production there is the more focus there is on costs. As we state here, the 1930s proved that this kind of economics doesn't work and that ultimately it is not in either business's or workers' interests. Unions didn't cause the Great Depression and were in fact a part of the cure for it.

Mr Erickson mentioned labour-management cooperation. We hear a lot of rhetoric from the business community about the need for labour-management cooperation and sometimes I don't think we can be blamed for being a bit sceptical about what the reasoning for that is, because business and management are always a lot more interested in cooperation when we're in a recession than they are when we're in boom times; and you have to pardon our scepticism. That's unfortunate. As a union, we believe that good labour-management cooperation throughout our industry and government enterprises, motivated for the right reasons, is a tremendous asset to the economy.

Unions, however, have every right to be suspicious of business's motivation in seeking cooperation when we look at the business lobby's vicious and vindictive reaction to this bill. Again, the fundamental premise of the business lobby's position is that it doesn't even accept the right of employees to have a union.

As experienced trade unionists, we know that the best managers not only accept the union but also believe in the need for unions. They understand the benefits for morale and therefore productivity when employees are represented by

unions: problems are brought to the surface and dealt with rather than being left stewing under the surface. Again, if you cut underneath the rhetoric in the business lobby position, you'll see that it's premised on the belief that unions are bad for business, bad for a company, bad for an operation. That's a premise that hasn't been accepted for the last 50 years in our society and ought not to be accepted or even considered in deliberations on changes to this act.

It's only the bad managers who don't like unions. These are the ones who like to rule by fear and brand anyone who raises a problem as a troublemaker. They are quite simply incompetent dictators who do nothing but harm to production. We're not suggesting that everyone in the business community who opposes this bill is motivated in this way, but we do believe that the ones who don't like unions haven't been exposed to them and therefore don't understand them.

Again, public policy in every province in the country recognizes that it's in the public interest to further harmonious relations by encouraging the practice and procedure of collective bargaining. Has the business lobby ever accepted these principles, even though they've been the law of the province for over 50 years? What has the business lobby ever done to encourage the practice and procedure of collective bargaining? Their position on these whole labour law changes is equivalent to somebody coming before the pay equity consultations and questioning the right of women to vote. That's the underlying premise in some of the thinking that we've heard from the business community.

Collective bargaining is a responsible process 99.9% of the time. In our experience, it is more likely the employer's fault than the union's when it fails. This is an important principle for a lot of business people. There's some kind of perception of union people all having horns and being raving lunatics and their purpose for existing being to destroy business. The reality couldn't be further from that perception.

Employees, and therefore unions, want to see their employers succeed, just as much as the employer does. It's so obviously true that it shouldn't have to be stated. I'm a union representative in the public sector, but I know that my colleagues who represent workers in the private sector, whatever company their members are at, want to see that company do well.

As a negotiator, I go to the bargaining table and I don't want to see a bad balance sheet; I want to see a good balance sheet. That's the kind of thing that responsible trade unionists preach to their membership. This committee should challenge the business lobby to name one single business in this area, or anywhere else in the province for that matter, that has failed because of the union. Their objections are not premised on fact but on empty rhetoric and by playing on irrational, hypothetical fears.

The conduct of the business lobby has been unacceptable and irresponsible in a democratic society, and again this brings me back to Mr Erickson's point. I agree with him: There's absolute paranoia running among the small business community in this town and elsewhere in the province. Who's responsible for that? It's not me, it's not this committee and it's not the government. It's the people from Mr Erickson's own constituency.

This province has been heavily unionized since the Second World War. This has resulted in a high standard of living for both workers and businesses alike. It is one of the reasons that Ontario has been the most prosperous province. For the business lobby to now be spouting that this bill will destroy the economy and cause the loss of hundreds of thousands of jobs is an outright lie. I've seen nonsense predictions by some business groups of 500,000 jobs being destroyed if you pass this bill.

To propagate this lie for the narrow, self-defined interests of a few anti-union types of employers is outrageous. To expend millions of dollars for this purpose, to the point where the prophecy becomes self-fulfilling, is unacceptable conduct in a democratic society.

What is pathetic is that the business lobby would rather commit economic suicide for its constituency than accept a few reasonable changes put forward in this bill by—horror—an NDP government. Every business person in this province ought to seriously question whether this lobby is acting responsibly on his or her behalf.

None of you should accept blame from Mr Erickson for the perceptions generated by the business lobby. I think it's been irresponsible, but he ought to be taking to task the people who are responsible for generating those perceptions.

Many of the business people whom we know in this community are thoughtful, fairminded, pragmatic and given to constructive and commonsense criticism, not empty ideological rhetoric and fearmongering. There has been no commonsense or constructive criticism from the business lobby.

Surely any thoughtful person has to accept that the labour relations climate has changed dramatically in the last 20 years. Our Labour Relations Act is substantially behind the other provinces and behind the times.

The next section deals with women's rights and part-time work. I see Lyn McLeod is here. I want to make a point. There's been a lot of discussion on this issue, but this is fundamentally a rights issue for part-time employees. Many of the sections in this act deal with conveying rights to segments of our society.

We give you a copy of the press release and the recommendations, on the last pages of your document, of a royal commission that issued its report in 1985. If you look at appendix A, it's the Report of the Commission of Inquiry into Part-time Work. This was a federal government royal commission that was constituted under a Liberal government in the early 1980s. They issued their report, and the report was issued during the tenure of Mulroney's first federal government.

The report is available from Labour Canada. It's a 216-page report, and I would urge the clerk of the committee to obtain a copy for every member of this committee, because it's worthwhile reading.

If you look at the highlights of the report, on the first page you'll see that men generally enter the part-time workforce at two stages in their lives: when they're still in school and just before retirement. Women, on the other hand, typically engage in part-time work during those periods as well as during the prime working age of their lives. In addition, at the bottom of that page, 72% of part-time



workers are women. In contrast, only 35% of all full-time workers are women.

1450

Then if you look at the second-last page of the document, it says, "Summary of Major Recommendations" of that commission. Under the first recommendation, it says:

"Labour standards legislation, at both federal and provincial levels, should be amended to ensure that all part-time workers, whether regularly scheduled, seasonal or 'on-call,' receive equal pay for work of equal value, are eligible for the same rights and protections as full-time workers, and are allowed to participate in pension and fringe benefit plans."

It recommends that, if you look at the whole report, on a prorated basis.

A lot of the, I guess, animosity in this debate has been almost reflex, that anything the NDP says should be rejected. One of the things the government is saying in this bill is exactly recommended by the results of a Liberal-appointed commission which gave its findings out in 1985, seven long years ago, that these changes ought to be done.

The last point I want to make on part-time work before I turn it over to my colleague is that this is the only jurisdiction in the country that allows the employer to determine that part-time workers—it allows the union as well to determine it, but it allows the employer to dictate that they won't be allowed to be in the same union.

Fair employers don't do this, reasonable ones don't do it. The employers who do that do it because, one, they want to weaken the union and, two, they can get away with not paying fair wages and benefits to part-time workers. That kind of unfairness is what is being addressed in pay equity legislation and employment equity legislation, and it ought to be addressed in the Employment Standards Act and the Labour Relations Act. I'm going to pass it over to Brother Tupker.

**Mr Jules Tupker:** The certification process: If a group of non-unionized workers want to join a union of their choice, the current process makes it so difficult that thousands of workers remain victimized and live in fear of reprisals. There should be a process where the union can request an accurate, up-to-date list of employees' names and addresses. If the majority of those employees want to have a union, it should be their right. They should not have to live in fear of the employer finding out that they want a union.

To give you an example, a group of women workers in Fort Frances recently signed union cards. The wage increase they had been promised for 1991 all of a sudden was not available. Why? Because they signed union cards. Audrey was one of those who signed a card to belong to a union, but the employer has changed her job duties so as to make her exempt from the union under the present Ontario Labour Relations Act. She is now regarded as middle management. Why should middle management be exempt from joining a union of its choice?

This employer in Fort Frances had a current union agreement with another group of employees but refused to

include these women in that contract, so now a first contract has to be negotiated, which could take up to a year, another year of living in fear.

We want to change the act so that if a union requests a recently unionized group to be included in a current collective agreement, the employer should not have the right to refuse that request.

Negotiating the first contract: We also want to change the act so that no employee suffers financial hardship during first-contract negotiations. Make it law that the negotiating committee is paid its wages.

Over time the needs of some unionized employees change, and an example is the health unit employees here in Thunder Bay. They want to form two separate bargaining locals. The employees involved agreed that this is in the best interests of the employees. The union involved agreed with separating this one bargaining group into two separate bargaining groups, but the employer has to agree to this change for it to happen under the current act. It may be 100 years from now before the health unit inspectors of Thunder Bay can have their needs addressed and have their own bargaining unit if the law is not changed.

The grievance arbitration process: In the grievance process we feel that if either party requests the assistance of a grievance settlement officer, the request should be granted. Some employers force all grievances to arbitration in the hope of financially breaking the union. The arbitration process is too expensive for small unions to use and waiting six months or longer for an arbitrator's award is unfair to all persons involved. We have waited that long for some arbitration responses. It's very frustrating to sit there and wait for those answers.

Use of replacements workers: Mr Chezick and I have worked full-time for the city of Thunder Bay for approximately 20 years each. We have been out on strike during this period for one time only. The thing that remains fresh in our minds is the violence that took place at the strike locations when the employer used BFI to replace our sanitation workers. This action resulted in citizens and union members being arrested. It was magnified by the massive use of law enforcement. This was the only location where there was property damage: one location only, and that was where the people were brought in to do our work and there was confrontation at that area.

BFI took advantage of teenagers by employing them to cross legal picket lines to do our work. This was putting young people in a potentially dangerous situation, which was not acceptable or responsible behaviour, in our opinion. Again, young people trying to find work are put in a position where they're put in confrontational situations with full-grown men and women who are quite angry and not prepared to take these actions lightly.

I remember the employer made work available for some of our members if they would cross the lines. This resulted in hard feelings between coworkers. These feelings still exist and only made the atmosphere at the workplace an anti-productive place to work in after the strike.

The government must place restrictions on the use of replacement workers so that labour disputes can be dealt with by both parties in a meaningful and effective manner

while reducing bitter and violent confrontations. Quebec legislation has proven itself and Ontario is long overdue to learn from its example.

I'd like to point out that the changes being offered in the act still do not protect our public sector workers because the act does allow contracting out of work by employers. It's quite possible that the city of Thunder Bay could contract out some of the work if we went on strike, so the act does not go far enough, as far as we're concerned, to protect our members.

Employee's right to go out on a legal strike: Why are some workers not allowed the right to strike? A janitor and a typist in a hospital are classed as essential services and are not allowed the right to strike without the fear of going to jail. If a doctor has the right to work to rule or strike, why can't an RNA have the same right? It just doesn't make sense.

When an employer violates a section of the Occupational Health and Safety Act, if found guilty, he receives a substantial fine. If an employer violates a section of a collective agreement or a section of the Ontario Labour Relations Act, he finds it amusing and laughs it off: "There's no problem. Don't worry about it."

I'll now turn it over to Brother Chezick.

**Mr Chezick:** Notice of general employee and employer rights: We feel it is essential for the posting of notices regarding people's rights under the Ontario Labour Relations Act at the workplace, which will ensure that more information is communicated to the employees.

I work at the Canada Games Complex, a large sporting facility in town. There is a great number of part-time workers employed in positions such as lifeguards, headguards, aquatic staff, front-desk staff, registration staff, administration staff, CPR and first-aid instructors, and more. Most of these people are in high school, college or university. They are working to put themselves through school or at least assist in sharing the costs with their parents.

At the complex, I work in one of the five unionized jobs. These young adults come to me with many workplace concerns once they find out the position I hold in the local union. They want to know things like: How can we join the union so that we can receive the same treatments as full-time staff? Why do I get scheduled to work between 25 and 34 hours a week and still am not considered to be a full-time employee? Why does the employer pay for full-time staff to recertify in courses such as first aid and CPR and they have to bear the cost plus lose wages while in the course? Why are we made to feel like second-class employees? The list of questions goes on and on.

I've tried to answer these questions in as unbiased a way as possible, telling them about the process to join a trade union, the delays that can occur, the difficulties organizers may run into, the hardships you may have trying to get a first contract and the avenues available to the employer to make it difficult to be able to back this choice. I tell them about the card-signing process used by the organizers versus the petition method used by the employer.

The conversations always lead to more questions: Why do labour unions exist? What do they offer the employee?

Why does the employer make it so difficult for a person to make a decision to join or not to join the union of his or her choice? Why do people get treated so badly when all they are trying to do is exercise their legal rights?

1500

I always end up frustrated because I can give them no guarantees and I know in my heart that the injustice they face in their workplace could be solved with a collective agreement. They end up confused. They hoped that if they went to school and received an education, this would ensure employment opportunities and freedom of choice in the workplace. They thought laws were designed to help people, not slow down the democratic process. We are embarrassed that young adults entering the workforce for the first time end up being shocked by reality.

The reforms to the Ontario Labour Relations Act must be made in this area so that tomorrow's graduates will know and understand the rights they have in the democratic society they work in. They need to know that no matter what decisions they make, the law will protect them from unjust treatment so they can perform productively in the workplace.

Security guards—choice of trade union: The corporation of Thunder Bay has removed positions of unionized night watchmen from some locations and replaced them with private security guards. There is no reason why this group of employees should not have the choice of which trade union they wish to belong to. We are aware of one employer in Ontario that includes the security guards in a CUPE bargaining unit even though the law restricts it from doing so. The present Ontario Labour Relations Act suggests that there is a conflict of interest that would make it impossible for security guards to perform their duties if they did not belong to a guards-only union.

By examples cited, it proves to me that this conflict does not exist. It also can get completely out of hand when the employer starts considering parking lot attendants at one of our local hospitals to be restricted because they are considered security guards. Since this is the only restriction of its kind in Canada, we think it is time the government remove it and give the group of individuals the freedom of choice to join a union they wish.

Conclusion: The current Ontario Labour Relations Act would have been a good document in 1910, but this is 1992 and the act must receive substantial changes to protect the working people in Ontario. We respectfully request that you listen to those of us who have to live with these problems and make these substantial changes.

The act has not been significantly amended by the Legislature of Ontario since 1973. As you are aware, the economy of Ontario has undergone many fundamental changes in this period of time. Therefore, it comes as no surprise to those truly aware of this current labour relations picture that Ontario's current labour legislation requires amendment to adapt to the present—

**The Vice-Chair (Mr Bob Huget):** Excuse me, sir, are you close to the conclusion of your presentation?

**Mr Chezick:** Yes.



**The Vice-Chair:** We have exceeded the time that's allocated for your presentation.

**Mr Chezick:** I just have one more page.

**The Vice-Chair:** Pardon me, sir?

**Mr Chezick:** I just have the completion of this page.

The Ontario government must proceed with these necessary amendments, even in the face of the loud but groundless opposition of the business lobby and much of the media that have been using scare tactics to attempt to sway public perception of the intent and effect of the government's discussion paper.

Careful analysis of the government's discussion paper reveals that each of the proposed changes presently exists in the legislation of at least one other province or in the Canada Labour Code. The proposals in the discussion paper are designed to update the labour relations legal framework in Ontario to better reflect the current situations faced by the workers and the employers in Ontario.

The impact of the union on productivity and competitiveness are well documented and clearly show that unionized workplaces are more productive and effective than are non-union workplaces. People work better when they know their rights are contractually protected and when they know their employer is being held accountable for his or her actions. Amendments to the Labour Relations Act would be a tangible demonstration of true commitment to equity, fairness and economic renewal for the working people of Ontario.

**The Vice-Chair:** Thank you very much for your presentation. We've slightly exceeded the time frame allowed for your presentation, so unfortunately there will be no questions allowed. I would like to thank your organization and each and every one of you for coming down this afternoon and playing an important part in the process.

**Mr Ferguson:** Mr Chair, can I just have one minute to correct the record on something I said earlier?

**The Vice-Chair:** I'm sorry, Mr Ferguson. We are already proceeding slightly late.

**Mr Ferguson:** Can I have an opportunity at the end of the day?

**The Vice-Chair:** You certainly can.

#### CANADIAN PACIFIC FOREST PRODUCTS LTD

**The Vice-Chair:** The next presenter is Canadian Pacific Forest Products Ltd. Good afternoon, sir. Please identify yourself for the purpose of Hansard and then proceed with your presentation. I think the committee would like about 15 minutes of your half-hour presentation for questions and answers, and if that works into your schedule, that would be great. Proceed any time.

**Mr John Taylor:** Before I make my formal presentation, I should mention that I'm not intimidated by the numbers of people on that side of the table versus the numbers on this side of the table.

My name is John Taylor. I'm the employee relations analyst at Canadian Pacific Forest Products Ltd in Thunder Bay, Ontario. I'd like first of all to extend my appreciation for the opportunity to address this consultation committee.

Canadian Pacific Forest Products Ltd is one of Canada's largest integrated forest products companies, manufacturing newsprint, groundwood specialties, pulp and white paper. Canadian Pacific is Canadian-owned and was created on January 1, 1989, through the amalgamation of the operations of Great Lakes Forest Products Ltd of Thunder Bay and CIP Inc of Montreal.

In Ontario, our primary manufacturing operations are located in Thunder Bay and Dryden, supported by wood harvesting operations throughout northwestern Ontario. We employ approximately 4,000 people in this region, and historically our markets have been primarily in the United States.

As you are aware, our industry is experiencing severe difficulties brought on by a global marketplace which is highly competitive, a prolonged economic recession which has resulted in a severe decline in product usage and the high value of the Canadian dollar.

It is a well-known fact that the vast majority of our employees belong to unions. As a result, the Ontario Labour Relations Act is an integral part of our business and we are affected by its provisions one way or the other in our relationships with those workers.

With this brief introduction as background, I'm going to make the following comments on the proposed amendments. I point out they're generally made to those issues which more or less directly apply to our own situation.

We'd like to speak first of all to the purpose clause. We subscribe to the notion that industrial peace and improved efficiency is vital to our operations and to the economic wellbeing of our province. We are concerned that to replace the present statement of principle, with which we have all agreed, with very specific purpose clause objectives may well inhibit or even prohibit the board from making the right decisions at the right time.

We do agree that employee participation and cooperation between the workers and management is necessary in the workplace, but we disagree with the concept that you can orchestrate this or further harmonize it through legislation. This is not a game that can be decided wholly by rules and regulations.

1510

In our opinion, the board would be forced to tip the scales towards unions in order to "facilitate" or "encourage" the process of collective bargaining; in fact, obtain those improved terms and conditions of employment which they have failed to achieve in past collective bargaining.

Where, we ask, is the quid pro quo? Who will interpret "improved"? What will those benchmarks be? No other jurisdiction has similar provisions and this proposal would truly underline our concern that the board would no longer be an impartial body existent for the purpose of "furthering harmonious relationships between employers and employees" in the public interest. You will recognize those words, and we believe the present preamble to the act can be appropriately interpreted by the board to attain the objectives we all seek.

We will speak briefly on the right to organize. We recognize the right of any group of employees to freely organize and participate in collective bargaining. The

limitations of that right for any specific group of employees must be carefully considered.

The present law permitting guards to form a bargaining unit and to belong to a union which exclusively represents such guards is based on practical reality. Allowing security guards to belong to a trade union which also represents other employees at the same place of business, even as a separate bargaining unit, would simply jeopardize their effectiveness with the inherent conflict of interest presented to them. We believe that the current restriction is important, is appropriate and should remain unchanged.

With respect to bargaining unit structures, in today's competitive global marketplace we believe that employees must share a common interest in ensuring long-term economic gains. This is often overshadowed by political and internal priorities set by individual unions, leading to fragmented workplaces where it is difficult to improve efficiency through employee participation and negotiation.

The proposed amendments giving the board power to consolidate bargaining units therefore has some merit. However, consideration to do so must be based on a recognized need for stabilizing the collective bargaining process and reducing the potential for serious labour relations difficulties at the employer's place of business.

We would not support, however, the combining of bargaining units in geographically separate places of work. We believe this would be inappropriate and would not stand that test of common interest.

Replacement workers: These proposals have already given rise to unprecedented argument and rather than foster greater understanding of the need for constructive dialogue, have served instead in many cases to widen the gap.

Limitations on the number of employees who can perform struck work, prohibiting striking employees from voluntarily returning to work and allowing non-striking employees to refuse to cross the picket lines are proposals which will likely increase the chance of confrontation on the picket line when a strike occurs.

The government's own discussion paper confirms that most collective agreements are reached without recourse to strike or lockout. More often than not, when strikes do occur, employers in Ontario do not attempt to maintain production in any event. That option to operate, however, must be available to employers. In many cases today, it may be the difference between survival and disaster for everyone. Neither should an employee's right to work be jeopardized.

There is absolutely no evidence that anti-replacement provisions can or will reduce the incidence of strikes. There is a fundamental issue here that shifts the risk factor when we are involved in the collective bargaining process, and rather than foster good-faith bargaining, it may in fact lead to an imbalance of power which would threaten the integrity of both parties at the most inopportune time.

Grievance arbitration proposals: Generally, we support many of the proposed reforms regarding the labour arbitration process. We believe both parties, labour and management, have recognized certain frustrations with the present system, and we subscribe to those suggestions which will

result in an effective method to promptly resolve disputes arising out of the collective agreement.

We do, however, have concern with the provision allowing arbitrators to address employment-related legislation in the grievance procedure. We do not believe this is appropriate, and those problems should be addressed only by the Human Rights Commission or the employment standards branch of the ministry; otherwise, the possibility of duplication is almost assured.

Adjustment and change in the workplace—a very quick comment. Many of the proposals related to coordination of collective bargaining information and preventive mediation services already exist in similar form in our collective agreements. We submit that this should be the focus of the government's efforts rather than making proposals which are perceived to be counterproductive and which will not enhance our ability to compete in the marketplace. We must work towards processes which will foster cooperative and timely labour-management responses to economic change and adjustment.

In conclusion, existing legislation which impacts on the way we do business in Ontario is comprehensive. While change is inevitable, widespread, fundamental restructuring is seriously jeopardizing our ability to manage our business and is resulting in further erosion of our competitiveness.

Employers are already faced with major legislative initiatives arising from this government's agenda, including the Workers' Compensation Amendment Act, the Employment Standards Amendment Act, the Pay Equity Amendment Act and the recently released Employment Equity Act. We are simply being inundated.

Grave concern—you've heard this often—has been expressed by the business community that many of the proposed changes in the Labour Relations Act are not in the best interests of the province or its citizens. The changes are perceived as being one-sided and restrictive in nature, and the warning has been made that because of that perception, those who invest and who have a choice of where that investment takes place will look closely at the cost of doing business and at the restrictive practices that make managing a business more difficult in Ontario. This is not the way to attract the business investment which is necessary to achieve productivity and quality improvements required to ensure our competitiveness.

It is apparent that the government is now fully committed and determined to enact Bill 40. The haste in which it is acting and the proposals as they are presently formed have done nothing but polarize large segments of business and labour at a time when we are in the midst of the biggest economic challenge that most of us in the province have faced in our lifetime.

In order not to further aggravate the situation, we firmly suggest slowing down the process. Where there is agreement in principle on proposed amendments—and there is evidence of this fact clearly being stated at these hearings—by all means, move ahead. Conversely, those proposals which have raised serious concerns and have been perceived to be more sympathetic to one party or the other should be delayed until strategies can be developed to provide some measure of understanding and consensus



between the parties. We can ill afford business and labour sitting in opposite corners accusing each other of being totally insensitive to their particular interests.

This concludes my remarks. Thank you again for the opportunity. I'd be pleased to answer any questions.

1520

**The Vice-Chair:** Thank you very much. Five minutes per caucus. Mr Offer?

**Mrs McLeod:** We are debating who gets to use the five minutes first.

I appreciate the fact that you've done a detailed analysis of the impact of the legislation, specifically in your workplace. You were looking at the possible merit in combining bargaining units. You weren't suggesting that bargaining units under different unions could be combined? It would just be different locals of a single union under one trade union?

**Mr Taylor:** No, we have not, certainly, looked at it from that point of view. One of the problems, and it's certainly evident in our own operations, is that with different unions representing different groups of employees—and I recognize that they have their own internal priorities and their own philosophies—it makes it very difficult for us to sit down with all of them at one time and come up with some consensus on how we might better do things. That is one concern we do have.

On the other hand, I certainly would not suggest that union locals of different unions should shake hands and all join in one. I certainly would not suggest that.

**Mrs McLeod:** I don't know if you've had a chance to look at the details of the legislation clause by clause, but where there is provision for a combination of bargaining units, there's also provision that the labour relations board would have the power, essentially, to amend a particular clause of any one of the collective bargaining agreements currently in place. Have you had a chance to look at the potential implications of that?

**Mr Taylor:** The only comment I have is that certainly, based on the comment I had earlier, the perception is that many of the proposals here in Bill 40 are certainly either very similar to or based on proposals which unions have been after for many years and which they have not been successful in attaining, perhaps. And here it is; it's being handed to them.

I ask the question, having been involved in collective bargaining: "Where is the 'you get this and we get that'?" I always thought that's what collective bargaining was. I know lots of times I'm not so sure that's the case. I've heard the statement, "The unions collect and we bargain," but—

**Mr Offer:** Thank you. Perhaps I could carry on with that line of questioning and relate it to the purpose clause. You've brought out an interesting point. In the wording of the purpose clause, you've zeroed in on the phrase "improving their terms and conditions of employment." That now is part of the purpose clause.

I have heard that because it is part of the purpose clause it would really run afoul of the legislation, if this were in place, for an employer in bargaining with the union to use the example that times are difficult and that

we're going to have to cut back in certain areas. That would be a contravention of the purpose clause, which uses the word "improve." I am wondering if that's your reading of the impact of that and, if so, what suggestions you might have.

**Mr Taylor:** Well, certainly that is the way I read the proposal. "Improved" to me is only one way, and that can only be up. Again, we ask the question, "What would benchmarks be in order for the board?"—the board would have to determine that under the way the legislation is written. It would be very dangerous, in our estimation.

**Mr Offer:** Thank you.

**Mr Tilson:** I asked a question earlier of, I think, the first delegation with respect to keeping that fine balance, the fairness between two groups—specifically the replacement worker issue.

Another section—I think it's section 32 of the bill—essentially says that if an employee brings a complaint of coercion or threat against the employer, the employer is guilty until the employer proves himself or herself innocent. That's one section I'd like you to comment on.

The other section in simply the whole issue of the replacement worker—in other words, the anti-scab legislation. Simply, there can be no replacement worker during a strike. The effect of that, as we have been told by industry, is that the industry has several choices: One, it can completely cave in to the union demands; two, it can close down and, in many cases, that could be for ever; three, and more important, it could, depending on the industry, simply leave the province and go to another province or the United States. That concern has been expressed at these hearings and I'd like to hear your thoughts.

**Mr Taylor:** I can only speak for our own plant. From a historical point of view, in a strike situation we certainly are unable to operate and we have a hard enough time with enough non-union people to even maintain the integrity of the facility. So I can't really comment on that.

What we're saying is—and that's the real crux of this whole problem—the perception is that those people who perhaps would want to continue operating under the proposed legislation, of course, could not. I would suggest as perhaps a reasonable alternative that you can't hire people, but at least the people who were there have that choice. I certainly don't condone and I wouldn't suggest for a minute that in the event of a foreseeable strike in our operation we would go out and hire 1,500 people just so that we could operate the plant and continue when the bargaining unit did go on strike. That would certainly be unreasonable and impossible.

So we haven't looked at it from that point of view. We simply believe that people should have the choices and certainly owners of businesses should have that choice as well. The fine line between labour on the one side and the owner or manager on the other side, at the very time that those decisions must be made—and I'm talking about that very special time at negotiations where you get to that point where somebody has to make a decision. What I am saying is that the way the proposal is written it will take

that away and the owner or the manager will not have the same options as he had prior to the proposal.

There is some measure of evenness even though on many cases it was never exercised; at least the perception was there that we're on equal ground. "You can strike, I can lock you out, so let's effect a settlement here before we hurt each other." I think that's the important thing; not, "If you don't do this, I'm going to do that."

**Mr Tilson:** That's assuming you have a reasonable adversary.

**Mr Len Wood (Cochrane North):** Thank you very much, Mr Taylor, for coming forward with your presentation. You're probably aware I had a career of 29 years at Spruce Falls in Kapuskasing and that's now under employee ownership. They have that mill and they have mills in Quebec. I believe you have mills in Ontario and in Quebec as well.

**Mr Taylor:** Yes, we do.

**Mr Wood:** On the legislation in Quebec, concerning your mills there, as compared to Ontario, what difference have you noticed? Any major differences in the different legislation in Quebec as far as replacement workers are concerned and things of this kind?

**Mr Taylor:** Personally, I don't have any experience in trying to identify any differences. It seems when the strike has been on, they've been on strike and so have we. That's all. I don't think it's made much difference.

**Mr Wood:** Are you aware that the major employers in Quebec have dropped their challenge to Quebec legislation?

**Mr Taylor:** Yes, I am.

**Mr Wood:** They feel it's something they can live with that is not going to be detrimental to their—

**Mr Taylor:** Yes, I am aware of that. I'm also aware of the fact that the record in Quebec is certainly not as good as it was previously. I'm not talking about our industry; I'm talking in general. As I say, Mr Wood, in our industry it's usually all or none.

1530

**Mr Wood:** From my own personal experience, I know it takes a cooperative working relationship between the employees and the employer if the company is to be a good employer and make a profit at the end. The price war that's going on has driven prices down by as much as 40% or 44% in some areas. Do you believe you have to have good, strong working relationships between employers and employees in order to survive?

**Mr Taylor:** There's no question of that fact.

**Mr Wood:** You belong to the chamber of commerce, I believe.

**Mr Taylor:** Yes.

**Mr Wood:** Although the chamber is not completely in agreement with the amendments, it made the comment earlier that it's shameful or disgraceful that the amendments being brought forward weren't brought forward earlier; they shouldn't have been left for 15 years. Do you have any comments on that aspect of it?

**Mr Taylor:** I'm glad you asked that question. I made the point in my presentation that there are things we certainly concur with. I have no objection to going ahead with some things that both parties agree help to answer the questions. This whole exercise has proven the point generally that perhaps we have forgotten about what the intent is and all we've done is created this imbalance.

Each party is sitting on the opposite side of the room and I'm a little bit tired of hearing about unreasonable employers and victimized employees. I could certainly find many examples where the same could apply to the other side, but that isn't what we're here for. We're here to find ways we can work better together and be competitive, because if we're not, this committee won't have any more reason to have meetings because there won't be any industry in this province.

**Mr Wood:** Briefly, on page 7, under "Adjustment and Change in the Workplace," you've pointed out that many of the proposals related to coordination of collective bargaining are already in place because you have basically a 100% unionized workforce, with the exception of management groups and some others. Thank you very much for coming forward with your presentation.

**The Vice-Chair:** Thank you very much, sir. I'd like to thank Canadian Pacific Forest Products Ltd for taking the time to be with us this afternoon.

#### CANADIAN PAPERWORKERS UNION

**The Vice-Chair:** The next presenters are from the Canadian Paperworkers Union. Please take the opportunity to introduce yourselves and then proceed with your presentation. Try to leave about half of your half-hour for questions and answers; the committee would really appreciate it.

**Mr André Foucault:** Initially, I'd like to convey to you Mr Holder's regrets—he's our national president—for his not being able to be here today. He was slated to appear, but a serious family crisis has come about. You'll recall that last Monday two young women were victims of a shotgun shoot-out; one died and one is in critical condition in hospital. Mr Holder's niece is the one who is in hospital. He sends his regrets and has asked me to appear to represent our union on his behalf.

I'd like to introduce the people who accompany me here today: John Currie, a national representative with the Canadian Paperworkers Union, Ralph Fesser, the president of our Local 257, and Warren Mazurski, the vice-president of our Local 39, both of which are in Thunder Bay.

First, on behalf of our national president, I would like to thank the standing committee on resources development for having us appear to present the views of the Canadian Paperworkers Union on Bill 40, the Ontario government's proposed amendments to the Labour Relations Act.

The Canadian Paperworkers Union represents some 21,000 workers in Ontario who are employed in the forest products industry, dealing with pulp, paper, lumber and paper-converting operations, the latter of which includes commercial envelopes, greeting cards, school and office supplies, corrugated products, folding cartons as well as



bindery establishments. We also represent some workers in non-related sectors such as distribution and cosmetics.

Many local unions have delegated representatives today to be here in support of our union's position. They come from as far away west as Fort Frances and as far east as Sturgeon Falls, Iroquois Falls and Kapuskasing.

The changes to existing labour legislation proposed in the bill are of the utmost importance to our union, to the workers we represent and to the unorganized workers who will join our ranks in the future.

As an overall assessment, I believe that the government of Ontario is to be commended for updating and improving the province's labour legislation. A number of areas are being brought into line with the more progressive practices in force in other provinces, and as a result the lives of working people throughout the province will be improved.

Perhaps the most interesting phenomenon surrounding the debate over the amendments to labour legislation in Ontario proposed by the government is the hysterical response from some parts of the business community. It is astounding that legislation that already exists in other parts of Canada, in other provinces, without having caused any upheaval, should receive such a reaction among so many elements in business.

Of course, it is primarily the most regressive members of the business community who have reacted in this way, those whose counterparts in earlier years could have been counted upon to oppose all progressive social legislation such as restrictions on child labour, the right to vote for women, the Canada pension plan and any and all legislation beneficial to workers and their organizations.

It is ironic that such feverish opposition arises in the midst of calls by business for workers to cooperate with them to meet the competitive challenge. The knee-jerk, anti-worker reaction to labour law reform in this province certainly does not lend credibility to these calls. Cooperation can only come when each party recognizes the legitimacy of the concerns of the other, something which seems to be sadly lacking.

I shall turn to some of the specifics of the proposed legislation. Bill 40 will bring many welcome changes in the area of organizing. Security guards, among others, will at last be eligible for union membership, and workers involved in an organizing drive will be better protected than in the past from employers who wish to prevent workers from exercising their right of association.

Unfortunately the proposed amendments retain 55% as the level of membership support required before automatic certification can be granted by the Ontario Labour Relations Board. Sadly, this will prevent many workers from joining a union despite the desire of the majority to do so. I strongly urge the government to reconsider this aspect of the bill.

Other measures, such as restrictions on petitions and the lowering of the percentage of membership needed for a representation vote, will assist workers in defending their interests collectively.

In the area of first-contract arbitration, important improvements to existing legislation have been made. Currently there is only one avenue for obtaining first-agreement arbitration under Ontario legislation. An application may be made

to the board following the announcement by the minister that it is not considered advisable to appoint a conciliation board or following the release of the report of a conciliation board that was established.

The labour relations board is then able to settle a first agreement in cases where it has been established that the employer refuses to recognize the bargaining authority of the union, where one party has failed to make reasonable efforts to conclude a collective agreement or any other reason the board considers relevant. The requirement to fulfil these conditions leaves the process open to legal wrangling, extensive delays and expensive appearances before the board.

This is an area of the existing act that required changes. The amendments proposed in Bill 40 do add a second method of obtaining first-agreement arbitration in an attempt to avoid the problems of the current procedure.

Under the new proposal, either party may request arbitration if an agreement has not been reached, provided 30 days have elapsed since the day the parties were in a legal strike or lockout position. This is certainly an improvement in that it eliminates the delays and high costs of litigation to establish eligibility for first-contract arbitration.

While the amendments do constitute a real improvement, CPU believes the 30-day provision remains very onerous for workers. Newly unionized workers must risk at least 30 days of economic hardship simply to apply for first-agreement arbitration. The Ministry of Labour has indicated the 30-day period is necessary as a deterrent to prevent "either party seeking to avoid the requirement to bargain." In our experience, problems arise when employers do not wish to bargain, hoping to break the newly formed union in its initial stages.

The 30-day period simply provides anti-union employers with a way to punish the new union members. Animositities established early in the bargaining relationship can take years to dissipate. CPU believes the government should do away with the 30-day period and allow first-agreement arbitration upon application by the union.

#### 1540

Strikes and the use of scab labour: The decision to go on strike and suffer economic deprivation is a difficult one to make. Workers do it as a last resort when all else has failed to bring about a fair settlement in a dispute with their employer.

Not surprisingly, strikes are quite rare. More than 95% of collective agreements are reached without a strike. Still, the strike does remain a necessary bargaining tool, the ultimate means for workers to pressure their employer.

When scabs are used, however, the effect of the strike is largely blunted. No longer is the deprivation experienced by strikers matched by deprivation on the part of the employer. Few things are more infuriating for striking workers than watching scabs take over their jobs. Not only is the effectiveness of their means of last resort much reduced, but the scabs are actually benefiting from the strikers' misfortune.

When the use of scabs is widespread, typically the case in the United States, the strike becomes a weapon in the arsenal of the employer. Anti-worker companies push

workers to strike by refusing legitimate bargaining proposals and then permanently replace strikers by scabs. Most of the original workers never recover their old jobs.

This has happened more than once in the paper industry in the US and has weakened workers enormously there. Communities have been torn apart, families split, and violence has erupted repeatedly. When a similar law was established in our neighbouring province, Quebec, the corporate community's reaction was much like the one we are experiencing in Ontario.

Ayant déjà travaillé dans cette province, je peux vous assurer que cette attitude a beaucoup changé. L'opposition patronale à cette loi a diminué considérablement parce qu'on reconnaît que les différends artificiels ou frivoles de la part de certains employeurs intransigeants ne sont pas aussi fréquents.

The recognition that anti-scab legislation has contributed to levelling the playing field to the benefit of workers, business and government alike is now being acknowledged by prominent members of the corporate boards.

Since the use of scabs during a strike is unfair to workers because it renders our ultimate recourse harmless and creates very long-lasting tensions and bad feelings, both between the employer and workers and within the community, this anti-worker practice should not be allowed in Ontario. It is a major concern of ours that the US experience not be repeated here.

The government's proposals under sections 73.1 and 73.2 do move to restrict an employer's ability to have bargaining unit work performed during a strike. Strike-breaking by bargaining unit members is prohibited. An employer can no longer hire replacement workers to perform the work of strikers after notice to bargain or bargaining begins. Neither can an employer transfer workers, supervisors or others from another location to the struck location.

These amendments should eliminate the picket line confrontations of the past. Unfortunately, Bill 40 does not go nearly far enough to ensure a semblance of balance between the deprivations suffered by striking workers and those experienced by employers.

Employers are still able to shift bargaining unit work to another geographic location. They are allowed to contract out bargaining unit work. Supervisors and all other non-bargaining unit employees who normally work at a struck location are permitted to perform the work of striking employees. While it is true the non-bargaining unit workers have the right to refuse such work, the employer is under no obligation to inform them that they have this right.

In the view of CPU, these omissions constitute a serious flaw in the proposed amendments. The economic imbalance in favour of employers will not be redressed and strikes will last longer than need be.

The CPU is pleased to see the amendments requiring employers to continue paying employment benefits when a strike or lockout begins, subject to the union's tendering sufficient funds to continue them. The cancellation of benefits has constituted a serious worry for many workers in the past, and this amendment prohibits unscrupulous employers from making such threats.

I would now like to comment on section 7(1) of this bill, which deals with the consolidation of bargaining units of the same trade union in the same workplace. Because of its history in this province, which goes back some 80 years, our union has two local unions in many operations, almost all of which are found in mills.

After reviewing this section of the bill and after intense consultation with legal counsel on this matter, we find that this portion of the bill cannot cause the locals of our union to be merged, but rather two or more bargaining units of the same local in the same establishment.

This interpretation is clear to us because of the decades of jurisprudence at the Ontario Labour Relations Board which define trade unions as those entities where bargaining rights are jointly held by the national and local, which hold the bargaining rights for the unit in question. Pursuant to this long-standing jurisprudence, we are secure in our belief that, at a minimum, the words "trade union" apply to our locals.

Having said this, however, we ask the committee to note that should any amendment be brought forward to modify the meaning of this section, to have it assume a broader application or that a broader interpretation is juxtaposed to it, the Canadian Paperworkers Union would stand in clear and immediate opposition to such a change. It would then be our strong position that an OLRB-supervised vote be conducted in each bargaining unit to determine the will of the members of each unit respectively, to favour consolidation.

Both results would have to be positive to allow consolidation. This would follow the provisions of our constitution. The committee must recognize the high stakes involved in such consolidations, reaching into pay scales, seniority and the constructive autonomy which goes back some 80 years.

In conclusion, CPU believes the government is to be commended for Bill 40, which constitutes a modest attempt to improve the lives of working people of Ontario. We urge that speedy passage be given to this bill.

The self-serving outrage of the most backward elements of the corporate sector should not influence the debate. These are the same voices that would have us march straight back into the 19th century with health care for the rich, crushing poverty for the aged, total arbitrary power for employers and an unorganized, demoralized workforce.

CPU has a different vision, one in which workers exercise their rights to free association and to representation by their own organization, their union. Only through unionization do workers gain access to due process and protection from injustice and paternalism on the part of their employer. Through their union, workers are able to pressure governments to enact the progressive legislation that sets us apart from a heartless, dog-eat-dog world. The unions in this country have played a major positive role in all the progressive legislation we take for granted today such as unemployment insurance, equality for women, medicare and old age pensions.

Currently, it has become fashionable to talk of cooperation between workers and employers to improve the running of the workplace. CPU has indicated a willingness



more than once to discuss the problems and legitimate concerns of management and to assist in improving the efficient running of our employers' operations. But there are conditions: Employers must be prepared to discuss our legitimate concerns as well. To do this, they must first recognize the legitimacy of workers' organizations themselves, the unions. This is only fair. It is consistent with the practice of our society of allowing all parties full representation.

While we believe that many of our employers do recognize the legitimacy of our concerns, sadly, this cannot be said for all employers in this province, not by a long shot. The debate over labour law reform in this province has demonstrated that many in the business world do not believe workers should enjoy the same freedom to associate that investors and corporations do.

In our view, the future should include workers, their intelligence, their skills, their opinions. Should the opposing business view, the one that wishes to exclude us, ultimately win out, we fear our province will lose much, both in the economic and social spheres.

**The Chair:** Thank you. Mr Jackson, three minutes.

**Mr Jackson:** I might ask about your last reference. I didn't notice it in the text, when you were talking about the consolidation of unions. Did you deviate from your regular text?

**Mr Foucault:** I did on a couple of occasions; that was one of them.

**Mr Jackson:** Can you share with the committee your legal counsel so that we might be in a position to contact them? The ministry lawyers seem to disagree or are rather unclear about your reference. I share that lack of clarity. Who might we talk to within your organization who gave you that opinion that the section would not work in the fashion in which we suspect it might work?

**Mr Foucault:** If the ministry staff want to contact me, I'd be glad to provide the name of the firm.

1550

**Mr Jackson:** What is the name of your solicitor, or did you have a written interpretation from your legal counsel?

**Mr Foucault:** It's a verbal interpretation after many hours of study and consultation. It's also based on a clear understanding of where the labour relations board has its jurisprudence, Mr Jackson. There's no question that the words "trade union," in the jurisprudence of the board, jurisprudence having been around for so long, have the equivalent value of law unless it's changed by law, provide that interpretation.

**Mr Jackson:** I'm not a lawyer and I didn't want to debate the point; I'm seeking information. You brought new information which is generally helpful to the committee, but it may appear that it doesn't concur with the ministry's thinking. When push comes to shove, when we open a bill and we change legislation, we're very much relying on the government's, or in this effect, the Ministry of Labour's legal interpretation.

If I may then move to a fuller understanding of what you shared with the committee, am I then to believe the interpretation that if the consolidation clause would cause

the smaller bargaining unit to merge with the larger unit or be facilitated—do I understand you correctly that your organization, the Canadian Paperworkers Union, would not support that clause?

**Mr Foucault:** That's correct. If somehow there was an amendment brought to this bill, as we understand it to be now, to provide for a broader application than just merging bargaining units with the same local, to the point where local unions of the same union could be merged in the same workplace, we would be directly opposed to that. There's too much at stake; too much has been built, in the last 80 years, around that current structure. Basically, it defies, in our view, the very right of employees to have control over their own mechanisms.

**Mr Jackson:** Mr Chairman, very briefly, then, if I might through you, I made a note with legislative counsel, and perhaps it is understood that it might examine the points you've raised and could, at some point, report back to the committee. I found the information helpful, but I'd certainly like to have it corroborated by the ministry lawyers.

**The Chair:** The staff have noted that request.

**Mr Pat Hayes (Essex-Kent):** Thank you very much for your presentation, André. First of all, I'd like to actually compliment your union on the things you have done with Spruce Falls, for example. I think what you've done there is to prove that the unions and the workers can work together to improve working conditions, not only by saving that corporation but also in the process of modernizing it. I think that's a real accomplishment. I think it proves that labour is certainly interested, and very much so, in the economy and in the community.

The question that was going around here for quite some time, especially with the people representing the corporations and businesses, was the imbalance, the fear of labour getting too much of a balance going in its direction. The question I would have to ask you at this present time—that I'd like to ask the others, I guess—is, how do you feel the balance is now? I'd like to ask you, obviously, some people think the workers, with this change of legislation, are going to have too much power. Can you elaborate on that, please?

**Mr Foucault:** I certainly can. First of all, thank you very much for your compliments on our involvement with the Spruce Falls project. I will pass on those comments to our leadership. I'm sure they will be well received.

In respect to the balance of power, the balance of rights in the labour-management field, first of all, I think I previously shared this view with the committee. In terms of when you look at the balance, you can't look at union versus management; you have to look at worker versus shareholder. That's where the balance is.

While workers are relying totally on their incomes to put bread on the table and to lodge themselves and their families, the shareholders, just by the mere fact that they were able to invest in that business, obviously have a more independent relationship with their investment than the workers have with their employment.

The balance is really one we have to look at in that way. If we do, then I think it becomes obvious that it's a

clear imbalance. Even with these changes adopted as they are or even improved as we seek them, there's still imbalance, because the worker still has to sacrifice substantially to exercise that right while the shareholder basically remains unaffected until the time comes when the shares drop and dividends stop coming, and it takes a lot longer time for that to be felt.

**Mrs McLeod:** I'm going to be somewhat general rather than specific to the concerns of Paperworkers, so I'd like to ask two specific questions, if I may. The first is whether or not you could comment on specific benefits to Ontario members of the Canadian Paperworkers Union that you see this legislation bringing, and secondly, perhaps you could comment on whether you have any concerns at all about the potential job loss in the retail sector, for example, or the tourism sector, on what that might mean in terms of job loss within the pulp and paper sector as a domino effect.

**Mr Foucault:** Okay; you've got two questions. I'm not sure I understand the second; let me tackle the first. Specifically with the Canadian Paperworkers Union, we see this bill as facilitating organization, giving workers in the province an easier access to union representation where they so wish it.

**Mrs McLeod:** Could you just specifically comment on whether that has been a problem for the Canadian Paperworkers in Ontario, and therefore how the legislation helps that?

**Mr Foucault:** It certainly has. We share the same experience as all unions in that regard. We're part of the universal experience. We also have been through the first-contract legislation process as it now stands, and I assure you that the worst-case scenario did develop where workers were forced to strike for a first contract, and only once the process was in place were we able to apply for access to first-contract arbitration.

We went through protracted hearings before the labour relations board: extremely costly and time-consuming. All this time, while we were arguing in the ministry's labour relations board in Toronto, people in Englehart were freezing on the picket lines and doing without income.

There's no reason to take that long, in our view, so surely we value the improvements being brought by means of this bill and would see them improved further by just simply eliminating the 30 days and saying "upon application." We'd all rather make a homemade deal between the parties. There's a lot of pressure on both parties to do that, but if it fails, then we should have access to the recourse of the first-contract arbitration.

The anti-strikebreaking legislation, we favour. We had some serious problems in the mid-1980s with respect to that, and we've had also, in this community, in the early and mid-1970s some very difficult times with respect to picket line confrontations. We do not wish that to be there. It places everybody in a very, very difficult position—our members, the law enforcement people and everything—and it doesn't have to be there. Employers have to understand that there is a balance which has to be present in our

relationships, and that includes during a strike. Those are examples.

**Mrs McLeod:** One of the issues of concern, obviously, in a community which is so dependent for jobs on the pulp and paper industry, is whether or not there's a domino effect of this legislation. If it doesn't have a lot of impact directly on either the industry or workers in the industry, it may have an effect of job loss down the line if it has a negative effect on the retail sector which uses the pulp and paper products. I wondered if you had any concerns about that job loss issue down the line.

**Mr Foucault:** We don't consider it a factor. Basically, a lot of the legislation which is before us today is legislation which exists in other parts of Canada. Some of it exists right across Canada, and other ones exist in as few as one jurisdiction, but the experience doesn't bear that kind of catastrophe out.

It saddens me to watch people present to you who like to create fearful scenarios. We have to be prudent, of course, as the committee is being and as we are, because we're all involved in the high stakes of the future. But to sound these alarms, in our view falsely, is not to provide a service to the debate.

We look overseas, in jurisdictions like Germany and France, where workers receive automatically, from year one, four weeks vacation with pay. They're on maternity or paternity leave with full salary for extended periods of time. When their plants close down, the approach over there is to buy the job back from the employee, the job being recognized as a property of the employee. There's all kinds of legislation which encourages, and if necessary forces employers to deal with their unions and workforce in certain ways. Yet somehow the European Community manages to compete. In fact, I dare say they out-compete us.

Compare that to North American competitors, for example, to go across the boarder, to use the most advantaged experience of, say, Texas, where the minimum wage is \$1 an hour; where unions are in a right-to-work situation, where they're fragmented by the ability of employees not to recognize the will of the majority; where, if you're on maternity leave, you're lucky not to be declared disloyal to the employer and fired, never mind come back to a job that pays roughly the same; where vacation is two weeks per year for as long as you work there, as long as you live; and where you don't even have to give notice of a plant closure, never mind buying the job back from the employee, and somehow they're having trouble competing with Europeans.

I suggest that this is crying the blues. We expect the corporate leaders of this country to stand up, take on the responsibility as management, look inwardly at the quality of the leadership provided to industry and quit moaning. Let's get on with the business of this country.

**The Chair:** I want to thank André Foucault, Warren Mazurski, Ralph Fesser and John Currie for appearing here today on behalf of the Canadian Paperworkers Union. We're grateful to you for your interest and your participation.



**Mr Foucault:** Thank you, members of the committee, Mr Chairman, for your attention.

1600

#### THUNDER BAY AND DISTRICT HOSPITALITY ASSOCIATION

**The Chair:** The next participant is the Thunder Bay and District Hospitality Association, if the spokespeople for the Thunder Bay and District Hospitality Association would come forward, take a seat, tell us their names and their titles, if any. Good afternoon, sir.

**Mr Don Johnson:** Good afternoon. My name is Don Johnson. I'm with the Thunder Bay and District Hospitality Association. I'm not a board member or anything. I was asked about three hours ago to read this speech. I'm not completely informed on this, so I guess I will read what I've got here. Not all of it pertains to me, but here we go.

Our presentation today is on behalf of the Thunder Bay and District Hospitality Association, Zone 25 of the Ontario Hotel and Motel Association. We've been asked to speak on behalf of our members about our industry's concerns with the proposed changes to the Ontario Labour Relations Act.

The hospitality and tourism industry in northwestern Ontario has been, like all other industries, very hard hit by the continuing recession. The current state of the industry in our region is abysmal, with some businesses hanging on to solvency by the skin of their teeth. The profit margins of most operations do not leave any room for flexibility, and therefore any amendment to the Labour Relations Act that has the potential to decrease the slim margin will be fought hard and long in meetings such as this and, eventually, through the electoral vote.

The main emphasis and concerns of our members are to the following clauses: replacement workers and access to third-party property for picketing. I would like to start by talking about the first issue, the clause concerning replacement workers.

Most of the major hotels in Thunder Bay are in fact unionized. Also, most, if not all, rely on unionized labour for nearly all the deliveries of the product they sell. Our industry is service based. Guests come to our place of business and we sell our products and services to them onsite, whether it be a bedroom, a meal, a beverage or a place for them to do business in like this room for this meeting.

All these products and services have a shelf life limited to today; that is, we can only sell this room today; we cannot sell it tomorrow for today. If this passes and at any time and for any reason the unionized employees of this hotel are on strike, meetings such as this would not happen. We are not a manufacturing plant that can move its production line to another location. The business would go to another hotel or hall where there was no labour disruption. Therefore, we not only lose the sale but these doors would be closed and locked because of Bill 40.

It will only allow this and any other hotel to function with its existing non-union employees, but only if they want to cross the picket lines. This hotel employs almost 250 local people; approximately 25 are not unionized. As you can envision, this hotel cannot operate with only 25 people.

A lot of our members are small family businesses. They would find it next to impossible to continue to operate their hotels or restaurants under those conditions. Therefore this government, through this amendment to the act, is telling us that we do not have the right at all times to operate our businesses. Now you will tell me that the purpose of the clause is to speed up the negotiating procedure. Pray tell me, which side has the advantageous bargaining position? Certainly not the owners or the management. Therefore, what you will see, unfortunately, is the unions using this clause to force their terms and conditions unconditionally. Is this democracy?

Our second concern is the clause concerning access to third-party property for the purpose of picketing. Some of our members have their work locations in shopping malls. Under the new legislation, trade unions will have the right to organize picket lines on third-party property, which includes shopping malls and other areas that are accessible to the general public.

The act says that they can only picket at the entrances and exits of the location that is on strike. What if that is in the centre of a food court in a shopping mall? In that case, will it violate the right to enjoyment of private property of other shops and businesses located in the immediate vicinity? Also, who will monitor this to ensure that the new laws are not broken, the police? We all know that most people will avoid any area that has a picket line, especially one which also has a police presence.

Therefore, there will be loss of business and undue hardship for those businesses which are located in the immediate vicinity. Who will compensate them? Will they have the right to obtain legal restraining orders to halt picketing? Can they sue the union for loss of business caused by the lawful picketing in another shop or restaurant?

Please don't get me wrong. We are not anti-union. Most contracts work effectively for all sides. For many years, organizations have successfully negotiated contracts that have been beneficial to all parties.

If changes are needed to the Labour Relations Act to make it fairer and more equitable, then why not listen to the concerns of industry and react positively to them, to make the employers a partner in the process instead of an adversary?

We do not need legislation to hold back growth in the economy; we need incentives to help all of us recover from this recession, to create more jobs and to ensure that we all have a well-educated workforce that is competitive in the world marketplace.

Thank you for giving our association the opportunity to address our concerns. Obviously, this wasn't written by me. I'm doing the best I can. I agree with some of it, not with all of it; it wouldn't matter.

I have one thing that was brought to my attention. I'm not even really sure if it's in the act. It is the right to converse or give the management position to staff without union intervention. I understand that if your staff is negotiating you cannot, as management, go in front of them and relate your views and concerns to them unless it has already been looked over by the union, and they'll tell you what you can say and what you cannot say.

To me, running a family operation, that would be a hindrance because I think that as the owner and operator, working side by side with these people, my views put forward to them would either help them decide as to my point of view or help them to decide towards the union's point of view.

As for being able to stay open, in my own operation, if my employees went on strike I would close that day. No sense in having hardships. I have to work with them the next day. Plus most of my customers are all unionized and wouldn't cross that picket line anyway. So my hands would be tied and mainly I'd like to keep a friendly relationship with them due to the fact that I do work with them side by side.

That is my presentation offered to you by the Ontario Hotel and Motel Association, which I received three hours ago.

1610

**The Chair:** Thank you, Mr Johnson. Ms Murdock.

**Mr Brad Ward (Brantford):** Thank you, Mr Chair. I'm Mr Ward.

**The Chair:** I know you're Mr Ward.

**Mr Ward:** You called me Ms Murdock.

**The Chair:** I called Ms Murdock Ms Murdock.

**Ms Sharon Murdock (Sudbury):** No, him first, me second.

**The Chair:** Had I thought you had indicated that you were going to question this gentleman, I would have called you Mr Ward.

**Mr Ward:** I'd like to thank you for your presentation. I realize that you're in a little bit of a difficult position, just being notified three hours ago, I guess, to come down and give the presentation.

Just a couple of quick questions: I'm not sure how much time I have. As far as the association is concerned, how would you classify the relationship between the employees and the employers within the Thunder Bay area? Good, bad—

**Mr Johnson:** On the whole I think they're very good. There are a few, but not very many, that—

**Mr Ward:** Overall, good.

**Mr Johnson:** Who knows? Management problem, employee problem, who knows?

**Mr Ward:** In your opinion, and I'm not sure if you know everything that's in Bill 40, why do you think that relationship would change? Probably it wouldn't in my opinion.

**Mr Johnson:** What I made an assumption of was that if I were not able to confer with my own staff at will—if I called a staff meeting and said, "This is my presentation," I feel that it shouldn't be rewritten for me or I should not be told what I could say or what I couldn't say.

**Mr Ward:** You can do that. You can have staff meetings. "Here's the direction we're taking in my facility."

**Mr Johnson:** I have no problem, then. I have staff that have been working for me for 15 and 20 years.

**Mr Ward:** I guess your employees currently aren't unionized.

**Mr Johnson:** Yes, they are.

**Mr Ward:** They are, and you have staff meetings and—

**Mr Johnson:** Yes, we do.

**Mr Ward:** That's not going to change.

**Mr Johnson:** No.

**Mr Ward:** In the association's presentation there were some concerns. I'm assuming they aren't opposed to some changes that are suggested that are already in existence across Canada; that is, security guards, petition restrictions and full- and part-time consolidation that are in there all across Canada. I'm assuming your association isn't opposed to those. You mentioned some other concerns. I guess you really can't speak for the association.

**Mr Johnson:** Primarily I think the association should have had someone on the immediate executive to be here and present for it. Speaking for them, I could probably assume their anxiety as to those that are not unionized, probably the anxiety of the ma-and-pa-run companies with the fear of being unionized. A lot of them operate on a day-to-day basis and are a borderline thing, largely due to the recession. Right now is a hard time for this industry due to the cost of gas, the cost of our product—

**Mr Ward:** I recognize they're tough times for a lot of people.

**Mr Johnson:** Right.

**Mr Ward:** Just one last question: Your employees are unionized. I don't know how many years they've been unionized but things have worked as far as you're concerned?

**Mr Johnson:** Things have worked for me under the conditions that they are now, due to the close relationship we have working side by side and understanding their anxieties. Working side by side you hear them every day, so you know where they're coming from and where they're headed. Somewhere along the line you meet halfway.

**Ms Murdock:** Thank you very much, Mr Johnson, for coming in. I know what it's like. My brother owns a bar in Windsor, so I know what it's like when you have to leave your workplace to come and do something like this. It's much appreciated.

In your situation—which is unionized—in your staff meetings, how much participation do your employees have in terms of the kinds of things that are done at work? I guess what I'm asking you is what kind of management style you have or think you have.

**Mr Johnson:** Fairly open. They know where the business is coming from. They know who our clientele is. They know our price code as to other establishments. They know our costs. They know we do pay more than most other establishments, but we're surviving.

**Ms Murdock:** So in other words, they have a fair amount of input in terms of how you operate your business.

**Mr Johnson:** Yes. I ask them continually for ideas on how to keep us in a busy mode. When we're down, everybody's down; tips are down, everything is down.



**Ms Murdock:** Well, I slung beer for three and a half years to put myself through law school, so I know exactly what that's like. The point that I'm making is that within the union structure—I know there's a lot of fear. You can sense that just with what some of the business community have been saying, that there is a lot of fear of unions. What I'm hearing from you is that within the union structure you're still able not only to make a profit but you can work well with your staff and that if you trust their judgements on things, the business can still operate and be lucrative. Would that be correct?

**Mr Johnson:** That's fairly correct. The only problem my staff has is around the negotiating time when an outside party comes in who does their negotiating. It changes from time to time and their structure changes. So they have a problem as to whom to believe, except for when they come down to reality and say: "Well, we know. We work here. We're not about to rape the business. We're about to stay in jobs. We know what they're doing down the street. We know what they're doing in the next town." So they're not completely stupid. A lot of them are, as yourself, putting themselves through school, and they don't have blind-folds on. They have a mind of their own.

**Mr Ron Eddy (Brant-Haldimand):** Thank you for your presentation. We've heard a great deal of concern from small businesses about the proposed amendments to the act and indeed the present act itself, considering that it was designed probably for very large industries and businesses. I wonder if your association feels, as do some groups which operate what we might deem essential services by municipalities and hydro commissions etc, whether there should be a different set of rules or a different working relationship designed for the smaller businesses and businesses like your own in the hospitality industry. Do you have any views on that?

**Mr Johnson:** I think the different set of rules would have to be formulated between the two groups, management and union.

**Mr Eddy:** Exactly.

1620

**Mr Johnson:** Because of the actual size of the business we're not—the larger hotels that are employing 250 people, they're in the larger flow of business, but in the smaller ones that are employing 20 and under, the actual owner-operator's job is running the business, not sitting in an office making up rules and regulations for everybody or doing bookwork.

My actual job is being out there with the customers and with my staff and picking up a tray, waiting on tables, bartending, cleaning up garbage, sweeping the parking lot, things that you can't afford to hire out. That's the job you've always done, that's your job that keeps you alive.

**Mr Eddy:** I think you've made a good point about negotiating between employer and employee, because we think that's what should happen with amendments to the act itself, that they should be negotiated between representatives of employers, representatives of employees and government.

**Mr Jackson:** Don, I remember you from the Sunday shopping presentations and, if memory serves me correctly, you have travelled a fair distance to be here today on short notice.

**Mr Johnson:** I didn't come from Duluth this time; I came from work.

**Mr Jackson:** Yes, but you must be prevailed upon quite extensively because, as I recall from our last public hearings, you were filling in for somebody as well on that presentation. Thank you very much. I've enjoyed this presentation and recall your presentation on Sunday shopping as well. It's good to see you again. No questions, but thank you for coming.

**The Chair:** Thank you, Mr Johnson. We appreciate you coming here on behalf of the Thunder Bay District Hospitality Association. You've presented their views effectively, and we appreciate that.

**Mr Johnson:** Thank you.

**The Chair:** The next participant is the Hospitality, Commercial and Service Employees Union, Local 73. While they are seating themselves, Mr Ferguson.

**Mr Ferguson:** Two things. I made a mistake earlier today that I just want to clarify, Mr Chair. I said that individuals could not organize on third-party property; in fact, they can. However, when you read the brief by the chamber of commerce, it's talking about people closing their individual businesses, and I thought that statement, number 7, referred to individual businesses. One would not be able to organize on an individual business's property but one would be able to organize in a mall, just to clear that up.

The second thing was that I shot some numbers through very quickly, and I just want to clarify. I used 94 work stoppages; I said 19 would have been affected by this proposed legislation in all sectors. In fact, the five that I referred to should've been applied to the manufacturing sector only. Only five manufacturing firms would have been affected. In fact, 37 of the firms did use onsite managers, which this legislation would also prevent.

#### HOSPITALITY, COMMERCIAL AND SERVICE EMPLOYEES UNION, LOCAL 73

**The Chair:** Hospitality, Commercial and Service Employees Union, Local 73, welcome. Tell us your names, your titles, if any, and carry on with your submissions.

**Mr Don Campbell:** My name is Don Campbell, president of the Hospitality, Commercial and Service Employees Union, Local 73, which is a local union chartered by the Hotel Employees and Restaurant Employees International Union. Mr Tom Rees is the international representative of the Hotel Employees and Restaurant Employees Union. Mr Ralph Orleib is with the United Food and Commercial Workers International Union, and we asked him take part in this with us because it's an industry that his union and ours share throughout the province of Ontario.

Before I start into the presentation I'd just like to clarify a point that was made earlier on by the chamber of commerce. They stated that labour had accused them of

feeding misinformation. I want to make it very clear that we never suggested, accused or alleged; we said outright that they are and have been a perpetual fountain of misinformation. Having said that, I'll get on with the presentation.

In opening we wish to emphasize to the committee our full and complete support of the Ontario Federation of Labour's position on the proposals contained in Bill 40. Nevertheless, there are certain areas of needed reform which relate directly to our members and others employed in the hospitality and foodservice industry. We will attempt through this submission to explain some of the problems confronting our union in relation to some issues that are not covered by the proposals set forth in Bill 40.

We recognize, from media reports and other presentations made before this committee, that there appears to be a great deal of employer opposition to the proposed reforms set out in Bill 40. We strongly urge the government to bite the bullet and push full speed ahead to complete the passage of this legislation. Ontario workers have waited far too long for these changes. We wish the committee well in its deliberations and ask that you act as speedily as possible to allow the government to bring the workers of Ontario what they have for so long been denied.

Improving collective bargaining and reducing industrial conflict, a piece of legislation that is very close to all trade unions: We've all been on the picket line and suffered immense hardships because of the use of scabs. We strongly believe the proposals relating to the so-called anti-scab legislation will assist in bringing about a more level playing field at the collective bargaining table within the hotel and restaurant industry. The legislation should bring about a better awareness of the problems facing both employers and trade union members and hopefully lay the groundwork for a more cooperative approach to the collective bargaining process.

Fundamental to reaching new goals in Ontario's industrial relations field is the recognition of trade unions as legitimate partners in the process, together with management.

Mr Rees will now continue.

**Mr Tom Rees:** Deduction and remittance of union dues: Although this issue is not contained in Bill 40, we would ask the committee to give serious consideration to our proposals in this area with a view to adding changes to Bill 40 to alleviate what we consider a grievous problem with the existing legislation under section 43 of the act.

It has been our experience in Ontario that far too many employers in our industry fail to remit dues to the union on a regular basis as required under the terms of their collective agreements. For small local unions in particular, when employers hold up dues remittances for several months the very financial survival of the local union is often at stake.

In one of our local unions we have 52 establishments where we represent a total of 500 members—in many instances 10 or fewer members per establishment. When an employer is delinquent in remittance of dues for three or four months and often more, it becomes a losing cause on the local union's part to proceed to arbitration for recovery of dues owing. None the less, it is an action that must be taken.

On at least one occasion the arbitrator stated in his award that no union should have to go to arbitration to recover delinquent dues remittances from an employer. Although sympathetic to our local union's problem, the arbitrator's fees must still be paid, in many cases amounting to more than the dues recovered. The labour board has consistently stated that it is not a dues-collection agency and has refused to intervene.

#### 1630

The board tells us that arbitration is the proper recourse for collecting and remitting dues. On the other side of the coin, the arbitrators tell us no union should have to resort to arbitration for such purpose. We need a remedy immediately.

An employer with whom we have had contractual relations on several occasions deliberately held up union dues remittances whenever he felt hard done by the union and particularly at contract renewal time if he felt that a strike or lockout would result. In effect, this particular employer was able to force the local union into some untenable situations since he was able to completely cut off the total funding of the union's day-to-day operations, at times for a couple of months or more. None the less, this present board does not see such action as an unfair practice under section 64 of the act.

We respectfully propose that Bill 40 be amended to provide that failure by an employer to remit dues forthwith is in violation of section 43 of the act and an unfair practice under section 64 of the act. We have no problems with employers deducting dues in accordance with section 43 of the act. The major problem is prying the dues out of the employers after they have made the deductions. This abuse should not be allowed to continue any further.

We had one instance this past week of an employer sending several months of back dues—a cheque for \$5,000. The bank called last week to say it had bounced and the employer bounced with it—it went belly up. This is the kind of thing a small local union is paralysed with.

We wish to express our thanks to the chairperson and members of this standing committee for giving us the opportunity of appearing here before you. If there are any questions, we will do our utmost to provide answers to same.

Before ending with a thank you, I'd like to digress to our previous speaker who was representing, he said, some 150-odd employers—and I don't mean odd employers—in our industry throughout the area. He was trying to persuade this committee that these employers should not be saddled with the anti-scab legislation as we know it. In fact, of those 150-odd people, approximately eight of them are unionized and would be possibly affected by anti-scab legislation. He happens to be one of them. Maybe misery loves company; we don't know.

I would like to advise this committee that only last January, when we appeared before the Honourable Robert Mackenzie, the Minister of Labour, one of the members of his group joined us—and who happens to be an employer in one of the larger hotels in the city of Thunder Bay—in a joint presentation to Robert Mackenzie's committee suggesting and proposing that the legislation that is now contained in Bill 40 be made law in the province, that he and others could live with it and that the whole operation



would be one of cooperatively working together and not the confrontation we have had, particularly in our industry in most cases in the past.

Thank you very much. I think Ralph Ortlieb has a few words he'd like to add.

**Mr Ralph Ortlieb:** I fall in with the first part of the presentation here, that generally we accept the changes in the Labour Relations Act. We think they're good. We think they're long overdue. It's taken a long time for changes to come. We have concern about the rhetoric that's going on, about the fear, about the yelling and screaming coming from the other side about what we're going to do to jobs and thousands of people and how hundreds of thousands of jobs are going to be lost.

We don't believe that. We don't believe it for a minute, and we just think we should get down to discussing the issues in the proposed changes to the act and not the fear and the stories that are being told.

We support the Ontario Federation of Labour generally in its approach and at some time in the future we'll be making our own presentation on behalf of our own union in relation to the changes we agree with and those we don't think go far enough.

**Mr Offer:** Thank you for your presentation. You may or may not aware that the very issue you've spoken about, dealing with the collection and remission of dues, was brought forward to the committee, I believe last week, in Toronto. I certainly do appreciate this, because for me it was an issue I was not familiar with, and if I can, in the short while allowed to us, I'd like to just make certain that we are running along the same track on this matter.

After that submission last week, I went and took a look at the Labour Relations Act to see exactly what it is, and I see that in section 44 of the act—we're not talking about Bill 40 but of the act—there is almost a duty to collect and remit. But I think you're saying that though the employers are collecting, they're not remitting them to the unions.

If that happens, the procedure that is available to you is by arbitration. At the end of an arbitration hearing, the ruling would most likely be that the money should be repaid. That was sort of a question. Could we get that on record? I think it's important.

**Mr Rees:** Yes. I think one of the big problems we have is that of course many of our units are very small units. Local 280, I believe, appeared before the committee in Toronto, and theirs is an excellent example of what is known as the bartenders' local. We have many instances of small units within our union in the province.

**Mr Offer:** But my question is, the arbitrator can say there is \$3,000 due and owing, basically, to be remitted, and make an order to that effect.

**Mr Rees:** Exactly. But the problem is this: If an employer with 10, 15 or eight employees runs up dues for five or six months and doesn't remit them to the union, to take a case to grievance and to arbitration, which is where you have to go with it, costs the union itself several thousand dollars. For a union that is fighting tooth and nail to exist and to properly represent its people, to have a representative available to them, it's extremely difficult to have

a bill, say, for \$1,000 in unpaid dues and have to pay \$3,000 in arbitration fees to collect \$1,000 of dues that were not paid by the employer.

**Mr Offer:** I understand. What's the difference then when one goes by the unfair practice route?

**Mr Rees:** We are hopeful that if Bill 40 were amended to make sure that an employer—this way, an employer, as we stated in the other part too, is able to influence things within the union. We talked in our brief of one employer who used this on many occasions. When we would get to a point where we were unable to reach agreement in negotiations, it was the same old business of dues would suddenly stop coming in, particularly where we had one employer with some 60-odd locations in the province. I'm talking about restaurants.

1640

**Mr Offer:** And the end result—

**Mr Rees:** The end result is that the—

**Mr Offer:** —is that the money would still be paid.

**Mr Rees:** You had one local union that was dependent on one employer. He was able, by holding up your dues for two months, to almost render the union harmless. He was hoping that the union wouldn't be able to pay its business agents, wouldn't be able to pay its bills etc, would not be able to conduct a strike, and all kinds of things happen like this.

**Mr Offer:** But putting all that aside, which I believe is extremely valid, at the end of the day by going through a section 65, I guess, an unfair practice—

**Mr Rees:** Yes.

**Mr Offer:** —the order would still be made but you wouldn't be subject to an arbitration fee.

**Mr Rees:** That's right. Not only could the order be made, but the order could be enforced through the Supreme Court.

**Mr Offer:** Okay.

**Mr Rees:** That is extremely important to us.

**Mr Offer:** Thank you for your presentation. It's an important point.

**Mr Tilson:** Speaking generally with respect to the hospitality industry, or the hotel industry, when groups from out of province, the United States or other provinces, are seeking to come to this or any other area and they're booking ahead for long periods of time, whether it be for conventions or it could be someone planning a wedding, it could be all kinds of things, in which some event is being planned some time off, and the hotel or lodge offers reduced rates or a better service, my question to you is, will this bill cause problems in competition with non-union hotels or non-union lodges in offering that service?

I'm thinking specifically of the section where you won't be allowed to have replacement workers under certain circumstances if there is a strike, or a union has given notice to bargain and the employer is only allowed to use employees of a non-bargaining unit at the time that notice was given. In other words, if someone dies or quits after

that notice is given, the employer isn't allowed to replace that worker during that period of time.

My question to you is, in those two situations, will that perhaps make people think twice about coming to a unionized hotel or a unionized lodge as opposed to one where that situation doesn't exist?

**Mr Rees:** In answer to you, we believe, and of course I think the members of this committee know full well, that the people whom we represent and the people we go out to organize are the poor of this province.

**Mr Tilson:** I'm sorry, sir?

**Mr Rees:** They are the poor of this province, at the bottom of the economic ladder, the minimum wage area. There has been advantage taken of that poverty level within our industry and people being fearful. Certainly, I have found through the years that I've been organizing that the fear among the poorer workers, of organizing and loss of jobs, is much greater than if you're out organizing engineers or specialty people or people with higher educational standards.

The fear of the loss of that minimum wage job is tremendous. We have a lot of damned good employers, but there are unscrupulous buggers too—pardon me—who play on that fear and have no qualms about telling people, "You join the union, you're out," loud and clear.

I hear people talking about votes. I've seen the votes where the president of a corporation is standing in the only hallway leading to the ballot box, where he's saying to the employees: "Don't forget what I've told you. If you don't vote the right way, the place is closed next week." I've been there. These things, in reality, happen to us, and people vote against the union often because of those pressures, especially in a small town, in a place like Hawkesbury I'm talking about, where 145 jobs were at stake, and they chose to keep their jobs because of the fear.

We have this same thing in our industry where you have the opposition of the union and the non-union. Certainly the non-union, minimum-wage employer makes it very difficult for those employers who are organized into trade unions, in this province and in others, because it is not a level playing field for them.

It also prohibits the people in our industry who desperately need to get a bigger, a little better slice of the pie.

**Mr Tilson:** I think that's the sad part of it.

**Mr Rees:** I'm trying to come up to answer your question, if you wouldn't mind, because I think it's an important issue you've put forward.

Our people only want that little bit bigger slice of the pie. You go to Toronto to a convention or you go to Montreal or what have you, or to Ottawa, you pay through the nose for that hotel room, as most of you know. Our people are still getting what is not much more than minimum wage rates, often depending on the tips granted to them by you, the client.

It's in our interest—and we believe this is what the government is intending to try and bring about, instead of the confrontational approach that we've had and which I think labour relations has aimed at in the past in the

province—to bring about a more cooperative approach. It's in our interest to get those conventions.

It's in our interest for our people to work to bring in as many tourists as we can into this province and see they're happy and see they come back. We don't want a confrontation. We want to be able to sit down and get a fair slice of what's there, and we're willing and ready to work with the employers; always have been.

We have been thwarted. We believe that this legislation for the first time will give the workers—the immigrants, many of whom and the majority of whom compose our membership in this province—the opportunity to organize, to be able to have a voice and maybe get rid of the problem you're talking about, of the non-union as opposed to the union.

**Mr Tilson:** I quite agree. The sad part of it is that the people you are speaking of are the people who are being hurt the most. But there's no question in the tourist industry that people in the United States, people outside of this province are trying to go to a specific area and be guaranteed that they're going to get a service, that they're going to be getting a specific rate, but that guarantee won't exist any more because it'll be physically impossible for a hotel or a lodge to provide that guarantee with those two specific provisions that I gave you. It'll be impossible for them to give that guarantee.

**Mr Rees:** Absolutely. Conventions generally are four or five years ahead, many of them.

**Mr Tilson:** That's what I'm speaking of, sir.

**Mr Rees:** Everything is taken into consideration. Believe me, the happy hotel worker or restaurant worker is the one who's working and getting hours. We want to see people in there. We do our best.

All we're saying is this: We can work together with our employers. We believe that the legislation, as we said, is going to bring about a more level playing field and it'll help and assist in bringing our industry, both employers and unions representing the employees in the industry, to the table on a more even basis. Hopefully it'll be better for everybody.

1650

**Mr Campbell:** If I can carry that answer just a little bit further: in terms of a struck workplace—I believe that was part of your question—a place that is on strike and they have reservations and what have you.

**Mr Tilson:** My question has to do with if you're trying to seek a convention or if you're trying to seek a group rate or something along that line, the guarantee that's been given in the past for a specific rate or a specific level of service can no longer be given. That was my question.

**Mr Campbell:** If the service was interrupted by something, such as a strike or a labour dispute, which is part of the Bill 40 proposals, the way we see it, that would push the two sides together and force the two sides to negotiate, instead of a confrontational situation.

**Mr Tilson:** I quite agree, if you reach that point. I'm talking about the people who were making the applications six years ago or five years ago. Would they pick this



particular location or would they pick another state or another province where that situation doesn't exist, where they want to be guaranteed a rate and they want to be guaranteed a level of service? That is my question.

**Mr Rees:** I can give you a simple answer. Although I'm out of Windsor originally, I live in Quebec right now. We have the same situation, no different in Quebec than it is in any other province: Four years ahead, you book and you get the rate you book for.

**Mr Ward:** Part of the intent of Bill 40 is to broaden the opportunity for employees, if they so wish, to collectively decide to have a trade union represent them. We as a government believe there are obstacles in the way of that choice. In your vast experience—and I'm talking to all three of you now—as far as organizing, what obstacles have you faced in your attempts to have employees follow through on their wishes to be represented by a trade union?

**Mr Rees:** I think that first and foremost are the instant threats we get as soon as we begin an organizing drive anyway, whether it be in a restaurant or whether it be in a hotel or other food establishment. We immediately get repercussions against those persons who are the—what shall we say?—inside organizers or who are talking up the union and those who are actively engaged, as employees, in organizing.

There are immediate repercussions to them of getting shifted from job to job. If you're in the kitchen you find yourself on the lousy shifts or on the dishwasher and doing the dirty work. If you're a waitress or a server you find that you're stuck in the worst part of the restaurant and you don't get the best tippers, or the others get the best tables and you don't get them. These things are done to people, and outright threats of, "No ifs, ands or buts; if you bring the union in here, we close the place."

We have an example now, I think, of one large major hotel in Toronto. We organized it some year and three months or more ago and applied to the labour board for certification. The employer came up with a list of employees that was absolutely unbelievable in numbers. It was a huge list that just didn't exist; we knew it.

Until just a couple of weeks ago, and with all due respect to any lawyers who are around, it became a lawyers' haven before the labour board, going through this list for 15 months. It's a large hotel near the airport in Toronto. Lord knows when it's going to be settled or if a vote is going to be held or whether we're going to be certified. It's disgraceful that people should have to wait that long.

As a matter of fact, the employer representative has died during the process. He's no longer with us. He wasn't a bad guy, but he's no longer with us.

It's dreadful that things like that should be allowed to happen, and some of the things—I mentioned earlier a vote we had in Hawkesbury at one time. That was a dreadful campaign where all kinds of threats were made, employer-sponsored petitions were put out there, and when all else failed, the president of the company stood there and told people—I went to the office that was conducting the vote at the time, and I said: "This is disgraceful. I just found out the president of the company is standing at the end of the

hallway. Everybody has to pass him, and he's telling them, 'Don't forget, if you vote for the union, I'm closing the place.'" In a place like Hawkesbury.

And other things, when we talk about anti-scab, it's part of the organizing, I'd say, in some regards. I recall having called a strike against a rather well known employer in the province which also operated in the province of Quebec. The women were scared; it was their first time on a picket line.

The employer put huge ads in the paper saying: "We're going to do this, that and the other thing. We're bringing in people from other provinces, management and non-union personnel, to staff the operations."

The first evening—and the girls were alone on a picket line in Ottawa—a car drives up, and inside are four of the so-called security that the employer had hired. This is after a long, tough organizing drive, and here we are in a strike situation, and something like 18 months had passed by. The women were standing there, not used to picketing; they'd never picketed in their lives before. The windows were rolled down, and a shotgun came out of one side of the front window and a pistol out of the back window, and they were told in not very nice language by these security people to f—\$m# off the picket line and stay away if they wanted to live.

This is an employer with a damned good reputation and a damned good name. We had these people arrested by the Ottawa police. The next morning a lawyer comes from the corporation headquarters in Montreal with a contract that he had with this so-called security agency that is a well-known group of ex-wrestlers, ex—let me say it right—cons out of the federal penitentiary, and I faced them many times, both in this province and in Quebec. When I hear about anti-scab legislation and what it's going to do, believe me, I saw those things happening. The employer comes into the police station. His lawyer hands a contract and says: "There was an error made. Here is the agreement. It was written in 'unarmed.' They're allowed to be armed in Quebec, and it was written into the contract 'unarmed,' and somebody made a mistake."

Now, a union guy points a gun at somebody, and he's going to do time. He's going to do time, and you're going to read about it in every newspaper in the country. It never even got a line, never got a line.

**Mr Ward:** What about the use of petitions?

**Mr Rees:** Oh God, the bane of our existence. In our industry, inevitable, absolutely, everywhere we go to organize, it's exceptionally rare where we're not faced with a petition of sorts, and always employer-sponsored, always.

There are some lawyers of course who have made a practice of it and made a bloody good living of it over the years, being behind them, and many of us know them well. One of them happens to be a good friend of mine, although he happens to be Irish. I won't use any names, but he just moved from his law firm, because I think he thinks his days of petitions are over. He's gone to another area away from labour relations, thank God, because I'm sure he knows that the use by employers of petitions will end once and for all.

I would say that 99.9% of the times I've been faced with petitions they have been employer-sponsored. It's always very difficult to get the proof. It's the old adage of the iceberg: Nine tenths are under the water. It's always hard to prove, and not just hard to prove, it delays and delays certification and bargaining rights. It gives the employer opportunities to work on people and drag people down, especially people who have been fired during the organizing campaign. Those who are active in the union are out sometimes for eight, 10, 12, 13 months before a settlement is reached, and of course all the damage has been done.

That's why we call it a more level playing field. It will give people—the people at the bottom of the heap need it the most. It will give a good opportunity for the workers who need organization the most to be able to reach out and

grab it and run with it, and hopefully we'll have a better province and a better labour relations situation because of it. I'm sure of that.

**The Chair:** Thank you, sir. Don Campbell and Tom Rees, we appreciate you appearing today on behalf of the Hospitality, Commercial and Service Employees Union, Local 73, and we thank you for letting Ralph Ortleib from UFCW, United Food and Commercial Workers, share your submission with you. You've made a valuable contribution and we appreciate you taking the time to be here. We appreciate your interest and we trust you'll keep in touch. Take care, people.

We are recessing till 6:30 this evening.

The committee recessed at 1702.



## EVENING SITTING

The committee resumed at 1830.

## UNITY, LAKEHEAD UNIVERSITY

**The Chair:** We're ready to resume. The first participants are from Lakehead University. Please tell us your names and titles and carry on with your submission.

**Ms Shirley Richter:** My name is Shirley Richter. I'm a clerk at Lakehead University.

**Ms Norma Gibson:** I'm Norma Gibson, vice-president of the Office and Professional Employees International Union at Lakehead University, and I work on the switchboard.

**Ms Cheryl Balacko:** I'm Cheryl Balacko. I work at Lakehead University in the bookstore as a book-order supervisor.

**Mr John Griffith:** My name is John Griffith. I'm president of the faculty association at Lakehead University.

**Ms Mary Garbutt:** My name is Mary Garbutt. I'm a member of OPEIU at Lakehead University and I work in the library.

**Mr Birbal Singh:** My name is Birbal Singh and I am vice-president of the Lakehead University Faculty Association.

**Mr Griffith:** This brief was initiated at a meeting of Unity, which is an organization consisting of all unions at Lakehead University. A list of the seven unions is in the brief.

The details of the brief were prepared by the members of OPEIU Local 81 and by the faculty association. Because of holidays and so on, the other unions didn't take an active role in preparing this.

We're going to comment tonight on those sections of Bill 40 which appear most relevant to our situation in the university community.

The first comments are stimulated by the document entitled Highlights: Labour Relations Act Reform. In reading that and looking at the changes that have taken place, we think it appears that most of the changes to the original proposals favour the employer and have been made as a result of pressure from the business community.

Apparently no changes have been made that would strengthen the avowed purpose of the amendments: firstly, to ensure that all employees who so wish have the same access to collective bargaining and the right to be represented by the union of their choice—in particular, we look at the section on supervisors, where they are left in limbo as they don't have a right to representation; and secondly, to recognize the profound changes that have occurred in the workforce, that there are far more women, far more part-time jobs and far more ethnic diversity and that there are far fewer skilled and semi-skilled jobs in manufacturing and far more unskilled, part-time jobs in the service industry.

You may wonder why some business people are so opposed to improving the status and working conditions of their lower-paid workers, particularly when the minimum wage is in fact well below the poverty level. We wonder if

the business community is happier with Bill 40 in its present form than it was with the original proposals. In fact we don't think so because it appears that some business people would only be completely satisfied if there were no unions, no minimum wage requirements and if employees could be treated in whatever manner the employer wished.

We find it difficult to take seriously the objections of a group which is spending large amounts of money on billboards across the province, equating the democratic right to join a union with the dictatorial communism of Lenin. Perhaps these funds could have been put to better use attempting to become more competitive and productive, as the Ontario Chamber of Commerce press release in June 1992 said. One wonders what comments the chamber of commerce would have made regarding the role of the Polish trade union Solidarity in the re-establishment of democratic rights in the overthrow of communism in Poland.

If we look at some of the particulars of Bill 40 in its original form and in its amended form, the first one that caught our eye was the section that was dropped, the proposal that would have allowed supervisors to organize. While we acknowledge there is some difficulty in defining the category of supervisors, it should be recognized that many low-level managerial personnel have no final decision-making powers.

If we take the university, legally the decision-making power is the board of governors. Even the president of the university "recommends" to the board. So the actual division between who makes the decisions and the recommendations is there, even though there is a large group of employees at Lakehead who are excluded from being unionized.

If we think of this group of low-level managerial personnel, how are they going to improve their working conditions? At Lakehead, they get a settlement after all the other unions have settled. They haven't got a settlement yet because the OPEIU is still bargaining. From July 1 there is a backlog in wages and in improving conditions for this group, which will only come to pass if the board can get away with giving OPEIU a small amount of money to let some money be available for the group of non-unionized. The term I've heard for the type of bargaining of this group of supervisors is "binding supplication." They go on their bended knees and they only get what the employer deigns to give them.

If it's imperative that labour and management increasingly work together to meet the challenge of international competitiveness and the unprecedented pressure for change in the workplace, if workers are increasingly being involved in improving business practices and in joint decision-making, then why should these groups, which have been working together with respect to the transition funds which the Ministry of Colleges and Universities is looking at now—the unionized groups and non-unionized and management work together—why should these groups that have been working to improve the practices be divided with respect to equal access to collective bargaining?

Maintaining the exclusion of supervisors is surely inconsistent with the avowed purpose of the act that all employees have the right to organize if they wish. It is suggested that such an exclusion may well be found contrary to the guarantee of equal benefit before the law in section 15 of the Canadian Charter of Rights and Freedoms and is surely a violation of section 2 of the charter, which guarantees the freedom of association as a fundamental Canadian freedom.

Even though it's difficult to obtain precise information, at Lakehead University there are approximately 150 full-time employees who are not represented by a union, many of whom fall into this intermediate supervisory category.

**Ms Garbutt:** One of these categories is our security guards at Lakehead University. They are presently required to join the Canadian Guards Association in order to avoid any conflict of interest. At Lakehead University there is no conflict of interest. The guards do not monitor employees, as in some cases; they are there to provide a safe work environment.

We have discovered that the CGA is very weak and considering dissolution. To strengthen their ability to bargain and receive fair practices and deals, guards should have the right to join the union of their choice or join a union already at the workplace, as at Lakehead University.

**Mr Griffith:** When we come to the access to lists of employees for organizing, the proposed amendments to the original Bill 40 have dropped the requirement that the union see the list, and this seems unfair. How do we know the list hasn't been padded? The only people who apparently see the list are the employer and the Ontario Labour Relations Board. If the union doesn't see the list, we've no idea of who in fact is on there.

We know that, in addition to the 550 unionized employees and 150 full-time, non-unionized, there are between 600 and 800 part-time employees. The number fluctuates. For instance, during registration they hire more part-time people. Unfortunately the government has decided not to proceed with an amendment requiring the employer to provide unions with lists of employees. If we had those lists, we could have had the opportunity to legitimately organize, or try to organize, among these 600 part-time employees.

1840

**Ms Balacko:** In general, part-time employees receive lower wages coupled with no benefits and no job security. Many of them are women and many are immigrants. These are the very people the government claimed it wished to protect with its amendments to the Labour Relations Act.

Unless a union actually knows who is employed and how to get in touch with the employees, it's difficult, if not impossible, to organize them. We would ask the government to reconsider its decision not to proceed with an amendment in this area so that part-time workers do have the opportunity to join a union and receive its support and its protection if they so wish.

**Mr Griffith:** At Lakehead University there are approximately 300 part-time faculty. They teach in the evenings and come to campus once or twice a week. They teach in widely separated locations across campus, as well as in

numerous locations across northwestern Ontario. If there's somebody in Red Lake, how on earth do the people who are full-time workers get to know who in fact is teaching? These part-timers never meet as a group. The union doesn't know who they are; they don't know their own peers; they may or may not meet the qualifications required by the collective agreement for faculty members. If we were to attempt to organize this group, we wouldn't even be able to check the accuracy of the list the employer filed with the Ontario Labour Relations Board.

**Ms Gibson:** OPEIU supports the amendment in Bill 40 which enables the board to combine full- and part-time employees in a single unit. If this clause were accompanied by a requirement on the part of the employer to provide us with a list of employees, the 300 part-time support staff at Lakehead University would have equal access to the right to join a union of their choice.

Unions are forced to monitor work areas in order to determine the presence of part-time employees who meet the criteria set out in the contract. The onus is then on the union to approach management with the names.

OPEIU is now in the process of picking up 11 part-time employees who have been employed at Lakehead University for over a year doing bargaining unit work but without access to adequate benefits and the protection of the contract. This action was started 14 months ago and is not yet finalized.

The combination of part-time with full-time employees in a single bargaining unit will strengthen the existing unit rather than create another weak one.

**Ms Balacko:** During a recent organizing campaign, a union member at Lakehead University was harassed during his coffee break. He was in the cafeteria. His union, unfortunately or fortunately, was organizing the members of the cafeteria staff. At the time in question, he was actually sitting and having his coffee, but was accused of organizing at the time.

**Ms Gibson:** From time to time, union members have been cautioned about conducting union business on campus when in fact they've been on their lunch break and their conversations have been social exchange.

**Ms Garbutt:** We have found that one of the affiliates of the OPEIU experienced difficulty during a recent strike because their work site was located in a shopping mall and they were prevented from picketing adjacent to their work location. By their having to picket the mall at its entrances, other businesses were affected and shoppers refused to cross picket lines. When this organization was allowed to picket at its work site, it made a very big difference in the mall.

In regard to the expediting of hearings, we believe this is a step forward in the board's ability to deter employers from committing unfair labour practices.

**Mr Griffith:** We strongly support the government's decision to prohibit the use of replacement workers. We believe that if replacement workers were allowed, the employer could continue his operation, which reduces the incentive to bargain in good faith.

We also believe this amendment will have the desired result of reducing violence on the picket lines. In fact we



point out that if an employer attempts to bring strikebreaking replacement workers across picket lines, it is the taxpayer of Ontario who pays for the protection of those workers who cross the picket line in terms of police and other people who have to be there.

The restriction on replacement workers needs to be strengthened. We regret that other non-bargaining-unit and supervisory employees will continue to be allowed to perform struck work.

**Ms Richter:** During a strike by the service employees at Lakehead University, the office employees of OPEIU were asked to perform duties of the striking union, such as emptying waste baskets and putting out garbage. Although the employee has the right to refuse this work, this fact is not made known, and some employees are easily intimidated.

We also regret the government's decision to drop the proposal that employees be allowed to negotiate the right to refuse to cross the picket line of employees in a different bargaining unit. This decision will help employers to ignore the legitimate requests of small and weaker bargaining units, such as those of support staff who are mainly women. It also has the potential of increasing conflict between groups of employees during and after a strike.

**Ms Balacko:** Now we're going to deal with successor rights. The importance of this issue became apparent when cafeteria services at Lakehead University were transferred to a new employer. The union was not recognized by the new employer, and an employee with 22 years of service, who had actually worked for this company originally, was let go. This person suffered a very traumatic stress-related breakdown and has since passed away and so cannot be here to speak for herself.

We are very pleased that the new legislation will ensure that a successor employer will be bound by any and all terms already negotiated, particularly in regard to cafeteria staff.

**Mr Griffith:** Various organizations have made comments about the relationship between Bill 40 and the economic viability of the province, but I remind these people that unions are formed to protect workers from exploitation. If all employees were given considerate and fair treatment and were treated as partners in a business enterprise, then there would be no need for trade unions. Surely it's possible for both business and unions to work together to improve efficiency, to increase productivity and to combine fair and legitimate profits with fair and humane working conditions.

The chamber is worried that Bill 40 will affect an employer's ability to negotiate effectively and to operate during a strike. What about the employees' ability to negotiate effectively and to avoid a strike? It's surely unfair that during a strike, which occurs when the collective bargaining process breaks down, one side must survive on strike pay while the other continues in business.

We strongly believe that our main weapon in today's global economy is the quality of our products and services. These can only be improved when workers feel they are being fairly treated. A strong union movement has hardly hindered the economic development of West Germany and

the European Community. Trade unions surely agree that business should view Ontario as a place where investment is encouraged and where it has an opportunity to grow. We're very pleased that General Motors has already demonstrated its belief that these conditions exist. However, while business growth is to be encouraged, it is surely also critical that Ontario be viewed as a place where growth in business is accompanied by fair and equitable treatment of employees as equal partners in the process.

We urge the government not to make any further concessions to the business lobby, but to proceed with Bill 40 as quickly as possible. We thank the committee for this opportunity to present our concerns to you.

**Mr Tilson:** I'd like to have you elaborate somewhat on the bargaining units for part-time employees. I'd like you to tell me a little bit more about why those two units should not be treated separately, other than of course increasing the coffers of the union, because the part-time employee and the full-time employee obviously can have quite different interests.

Part-time employees may not wish to have the pension issues. They're in there to make funds. They're not interested in the type of security perhaps that the full-time employee wishes. They may not even wish to join the union. Yet under this proposed legislation, if a vote is taken and the percentage of the vote is received from the full-time group, the part-time employees would be forced to join whether they want to or whether they do not want to.

**Ms Gibson:** At Lakehead University, the majority of part-time people do come to us asking us to do something to get them into the union. This has been proven. We already have people part-time. We have sections of the contract that cover those people and they do have benefits. They do get the working wage that anybody else does. If they were not part of the union, they would not.

1850

**Mr Tilson:** I'm not challenging the right for the part-time employee to become a member of the union. I believe they should have that right. What I'm saying is that the interests of the part-time employee and the full-time employee in many cases can be quite different and that those rights should be respected and that one group can be forced to join another group even though those interests are quite variable. My question is not whether they should be entitled to unionize, but why in the world they should be forced to join the same group when their interests are quite different.

**Mr Singh:** I think you are trying to look at exceptional situations in trying to generalize that. Trying to divide two groups sharply on this basis is not fully justifiable because many of the part-timers are there on a part-time basis because of either circumstances or of lack of availability of full-time work. You are making an assumption that all the part-timers are there purely by choice.

**Mr Tilson:** Most jurisdictions throughout North America separate the two groups. Why should Ontario be different than all other jurisdictions?

**Mr Singh:** Somebody has to take the lead. Let me tell you here, maybe giving a lecture as a teacher, that of all the

forces acting on mankind, change is the most beneficial and most cruel, but somebody has to take the lead in that change, especially when the change comes so dramatically. It is true that the many groups feel uncertain about the outcome. Those who are going to be affected are worried. Even those who are not affected get worried.

**Mr Tilson:** You say that notwithstanding the fact that the two groups can have quite different interests?

**Mr Singh:** No, I don't agree that the two groups have quite different interests. Some of the people in two groups may have different interests.

**Mr Tilson:** I give the example of the pension benefits. The part-time employee may not have the desire to have a strong pension plan that the full-time employee has. They're not in it to receive a pension or other such benefits. They're in it to make money, money that's quite different than the full-time employee.

**Mr Singh:** In that situation, it will not be difficult for the unions to come out with proposals for flexible benefit schemes.

**Mr Tilson:** But that isn't what the act says. That isn't what the bill's saying.

**Mr Singh:** No, but we are bringing in different alternatives.

**Mr Jackson:** I had a couple of quick questions about the arbitration process. I've been involved with labour bargaining in the educational sector and this committee has heard presentations from the regular school boards which fall within the separate legislation or outside of the labour act, whereas you're a combination of unionized workers who are partially covered by provincial legislation, but all of you are covered by the labour act. Is that not correct?

How do you feel about the expanded role of the arbitrator where, for example, you have straight seniority—last hired, first fired—for dismissal, for reductions? In this economic environment there's contraction unfortunately in virtually every one of your bargaining affiliates. How do you feel about an arbitrator having expanded power to get into areas like program protection, to override certain management decisions or certain decisions that the union might support but the arbitrator might change?

In the educational field it works against the labour unions. It doesn't work for them because of the unique nature of collective bargaining for education. How do you feel about or are you aware of the expanded powers that the arbitrator might be granted in this circumstance?

**Mr Singh:** I'm not aware about the total details, but still I object to your taking a sharp division between the interest of the union and the interest of management. We are looking at the interest of the province and the interest of the country together.

**Mr Jackson:** You can object all you want. That wasn't my point. Perhaps you should listen more carefully to my question. I'm still trying to get an answer to the notion of, you have six or seven different bargaining affiliates and you interrelate on one job site but you don't interrelate in the way an arbitrator would deal with you because there's a world of difference between academia and program

protection and those persons who might be assigned to the janitorial or the CUPE union.

That's the nature of my concern, and education is unique in that regard. School boards have already told us that there are serious problems here, because some are within the Education Act and some are under the labour act. But community colleges, as I understand it, are all under the one act.

**Ms Garbutt:** That's right. At the university we're all under the one act. It's not the Education Act, it's the labour act, and we have no problem with the arbitral part of the changes and things that are—you'll note there are things in our brief that we did not speak on. What we tried to do was deal with problems we have at the university. We didn't dwell on arbitration cases because we have a tendency not to have that problem, very thankfully, so we really can't go into a lot of detail in some of those areas.

**Mr Ferguson:** Thank you very much for taking time out of your busy schedules to be here this evening. First of all, I just want to reference that the chart that has been published clearly indicates, and I'd like research to confirm this, that full- and part-time workers in every other jurisdiction in Canada have the right to single-unit representation if they so decide. Can we just have that question clarified as soon as possible?

**The Chair:** That's noted.

**Mr Jackson:** As I understand it, so does Ontario. What we're saying is that it would be easier access. Isn't that your point?

**Mr Ferguson:** On the brief that's just been presented, I think the people who have taken the opportunity to speak clearly recognize that we're trying to bring the Labour Relations Act out of the 1970s and into the 1990s and recognize of course that there is a changing workplace out there.

In one of your comments in the brief, on page 1—and I'm glad to see that you recognize this, because it's certainly not getting universal recognition, that's for sure—you state that it appears that all of the changes to the original proposals favour the employer. I want to tell you that I'm glad to see you recognize that there have been some changes. In fact you should know there have been 23 changes in total, 10 I would classify as major and 13 minor.

Despite those changes from the original consultation process that took place with the minister when he went around the province and spoke to well over 300 groups and individuals, do you think this act is still going to be able to serve the interests of the workers in this particular community as well as the business sector in this community?

**Mr Singh:** No. A couple of days ago some women's group did bring out points that though the act is trying to improve the working conditions of women, it really is not going far enough. I believe there are other groups to articulate their cases. We are basically talking about the university and related unions in the university.

But bringing it back to your point of going from the 1970s to the 1990s, it's very interesting that in just this month's Harvard Business Review, one of the well-known conservative gurus in this area, Kevin Phillips, has agreed



that the Anglo-American model of the 1980s with less government and no government activism has failed and the Franco-German model of increased government activism and long-term strategic thinking has outperformed Anglo-American models. So thanks for pointing out the difference between the 1970s and the 1990s.

1900

**Mr Offer:** Thank you very much, Mr Chair. I want to deal with the issue of part-time and full-time employees very briefly, because the issue, when you cut through everything, is not whether part-time workers should or should not unionize—they have that right—nor whether they should combine, because that's there. The issue, when you cut through all of it, is whether before part-time workers are combined with full-time workers there should be a majority of both part-time workers and full-time workers who want that, and if the majority want that, then let it be. Do you believe in that?

**Mr Singh:** Once again, just to give you the viewpoint of the university—that's what we are representing—about the kind of part-time employees we have, for example, we have over 300 sessional lecturers. Most of them are working part-time hoping to get into full-time positions. They will be glad to have all the benefits we have and glad to join us if they are allowed to do so.

**Mr Griffith:** I'd certainly say yes to your question.

**Mr Offer:** Thank you very much. Unfortunately the legislation does not allow that to happen, and that is the concern that we have brought forward almost from day one: Let the majority of the workers rule. Let them decide. This legislation does not allow that to happen.

My next question deals with the issue of organizing. I don't know if I'll have the time to bring in the issue of lists, but with respect to organizing, you've brought forward difficulties of organizing and some of the things that have happened in an organizing drive.

Since the beginning of these hearings, people have come forward, not only with difficulties in organizing, and they've provided information such as here. But others have said: "Well, let's deal with the issue. Let's give to the workers, the men and women, wherever they're located, the right to make that decision in a free, unfettered and secret way. Let there be a time when they are informed as to what organizing means to them, let them be informed of the issues, and let them, after that time, cast their vote, yes or no, in a secret ballot." My question to you is, do you agree with that?

**Ms Balacko:** I think I'd like to speak on that. I think in some ways a secret ballot is fine, but if you give people too much time then you also have the influence from the other side where people are intimidated, and in those positions a lot of people are intimidated. They are women, they are immigrants, some do not speak English or don't speak English well enough. They don't always have the opportunity to make that choice freely.

**Mr Offer:** Do I have some time left? Thank you very much. My question to you again is—and remember we have in this legislation some very severe penalties to an employer right now that if there is coercion, there will be

unionization, there will be a certification issue, under Bill 40. So there is a very severe penalty which I think would meet the concerns which you've just raised and which are very valid in my point.

The second point is, let's take a look at that time period. Let's not make it unduly long or short, but let's give to the workers, to the men and women wherever they're located, what it means, and let them then cast the vote free, secret and then let the majority rule.

My question to you is, do you agree with that?

**Ms Garbutt:** In my experience, when organizing drives are going on, I think all the sides, everything is presented to whomever you're organizing. I think they are given time, but we have found that if things go on too long, a union has gone in and has organized, has everyone behind it, but if things aren't done quickly, they change because they are being influenced by outside forces. It's usually the employer who is influencing them.

There have been cases, and I'm sure you've heard many of them, where people have been fired for organizing, and all sorts of different things. I really think the time limits are there and they should stay there. It doesn't help either side in an organizing drive when problems come up and things aren't settled. So I really think it should be the way it is.

**Mr Tilson:** The question was, do you believe in the secret vote?

**The Chair:** Well, no. The question is that we're well into the next group's time. I'm going to thank you people very much for being here this evening, Unity, which speaks for the Canadian Guards Association, Local 102; Canadian Union of Educational Workers, Local 5; Operating Engineers International Union, Local 865; Office and Professional Employees International Union, Local 81; Service Employees International Union, Local 268, and Lakehead University Faculty Association, Units 1 and 2. Thank you very much. Your comments are appreciated by all of the committee and we appreciate your taking the time to be here this evening and to express your views. You've performed a valuable role.

#### DRYDEN AND DISTRICT LABOUR COUNCIL

##### INTERNATIONAL WOODWORKERS OF AMERICA—CANADA, LOCAL 2693

**The Chair:** The next participants are going to be jointly the Dryden and District Labour Council and the International Woodworkers of America—Canada, Local 2693.

Go ahead. There are two submissions. You decide which order you're going to do these in. We've got your written briefs. They're going to form part of the record, they're exhibits. Go ahead. Tell us who you are first and whatever titles you might have, your names and titles, and then go ahead with your comments.

**Ms Alma Wall:** Good evening. I am Alma Wall, president of the Dryden and District Labour Council. With me are Mary Aitken, vice-president of the Dryden local of the Canadian Union of Postal Workers, and Wilf McIntyre, president of Local 2693, IWA—Canada.

For more than a year now we have been subjected to one of the most hysterical anti-union, anti-labour campaigns the likes of which we have not seen in decades. It is now time to get things back in perspective. The proposed amendments to the Ontario Labour Relations Act are not about unions. The amendments are about people. The amendments are about women in the workforce, they are about immigrants, they are about single-parent, single-income families. They are about a changing workplace and a changing workforce.

The workplace and the workforce have changed dramatically since the Ontario Labour Relations Act was last amended. The proposed amendments represent a good beginning to recognizing and addressing these changes.

The workforce is shifting to the public sector and the service sector. There is also a dramatic shift to part-time workers. Many of these workers represent single-parent, single-income families. The current legislation does not allow many of these workers to be represented by a union. These workers need and want the opportunity to take advantage of the same rights and benefits their co-workers are entitled to under a union contract.

Even in a small community such as Dryden we see many workplaces shifting to a part-time workforce. Unfortunately none of these workers are able to get part-time mortgages, part-time car payments or part-time rent. In most instances, as part-time workers, these people are not entitled to any benefits such as dental and medical coverage. Many of these workers are not entitled to sick leave benefits. If these workers miss work due to illness this represents a total loss of earnings for that period. A part-time worker cannot afford the loss of a day's pay. If the illness is ongoing, the worker is likely to find on recovery that he or she has been replaced and there is no longer work available. This is adding insult to injury.

These workers need some very basic rights to maintain a standard of living and retain some dignity. For a single-parent, single-income family, the ability to join a union and negotiate some form of benefits would be a welcome change and go a long way to maintaining or improving their standard of living.

Many workers recognize the benefits of being a part of a unionized workplace but are afraid of employer reprisals. Although it is not legal to discharge a worker for union activity, the dismissal of a key worker in an organizing campaign can stop an organizing drive in its tracks. This tactic is often employed for just such a purpose. Even if the organizing drive is successful, it can still take months to process a grievance and have the discharged worker reinstated. The likelihood of this tactic being employed seems to be directly proportional to the need for a union in the workplace.

For many years, the Dryden and District Labour Council has lobbied for replacement worker legislation. Much of the violence seen on picket lines can be attributed to the use of replacement workers. Over 90% of contracts are settled without strike action. The decision to take strike action is not an easy decision and it is not taken lightly.

Strike action is a very negative action. Workers involved in a strike action are under extreme stress; they have no

income and no idea of how long they will be on strike. When replacement workers are brought into the workplace, it only serves to prolong the strike action and increase tensions. Replacement workers are not used to provide necessary services; they are used to intimidate strikers. The use of replacement workers only serves to create more barriers and hinder the collective bargaining process.

During the past weeks, I have had the opportunity to follow some of the hearings. I have heard much talk of a level playing field. This seems to be the catchphrase these days. We have seen what the level playing field has done for us in the Canada-US free trade agreement; we are going to see what the level playing field does for us in the North American free trade agreement.

I respectfully submit that this is not a field, this is not a game and I'm not playing. This legislation deals with issues which affect the daily lives of many workers in this province. Do not belittle its importance by referring to it as a playing field. Wilf.

1910

**Mr Wilf McIntyre:** Thanks, Alma. On behalf of IWA—Canada, we are pleased to be able to make this presentation to the standing committee on resources development. I would also extend my thanks to the Dryden and District Labour Council and Sister Wall for sharing some of their allotted time.

In northern Ontario, Locals 2693 and 2995, IWA—Canada, represent over 7,500 members who are primarily employed in the woods operations of pulp and paper mills, sawmills, plywood and flakeboard plants in northern Ontario. We stretch basically from the Manitoba border down into Sudbury and North Bay with our two locals. We have represented workers in these operations since the early 1920s as the Lumber and Sawmill Workers Union, which was then affiliated with the United Brotherhood of Carpenters and Joiners of America. In 1988, we, along with the International Woodworkers of America, separated from our respective internationals and merged to become IWA—Canada. We now represent over 50,000 members in the woods industry of Canada.

Present labour legislation gives a great number of opportunities for confrontation. There are a great number of areas where confrontation can be dragged out. There are those who have a vested interest in opposing reform. The opposition to reform is insisting that the confrontational positions continue. This is evidenced by the almost panicky press releases by the lawyers screaming against the new legislation because they know that the present system is lining their pockets.

I just want to bring to your attention that last week our papers were full of lawyers' comments on how bad this legislation is going to be for them to make money. IWA—Canada experienced one very recent example of this. We have noticed that the government did not make any changes to section 40—employer request for a vote on last offer—where there isn't a provision on who has the right to vote. The employer got bamboozled into some 60 days of hearings against IWA, thinking he was going to make his fortune by filing a lawsuit against us. After some



\$350,000 in legal fees, IWA and the company managed to come to an agreement because the company finally realized who the real winners of this jackpot were. This is why we feel that these changes have not gone far enough.

Looking back through the records in our office the other day, we found that all of the changes and many others were proposed back in 1961 and 1963 by this union, and I'll give you a little history of why some of it was proposed as we go along. We believe that this is how far outdated the present labour laws actually are.

Our union has, over the past 50 to 60 years, negotiated thousands of collective agreements with very few strikes, and most of these were the result of demands from the company to try and destroy the union. When this happens, you can rest assured that the company has put a plan together to bring in scab workers to start confrontation.

In 1963, we had three members shot to death and eight others wounded at Reesor Siding between Kapuskasing and Hearst. We have a monument that was put up there in 1965, I believe, and these are pictures of it. If some of you ever drive up that north highway, you'll see it up there. It's taken 30 years to finally get a government to recognize that it should be a historical monument. Finally, this government has taken upon itself that it will put a recognition in there and it will be looked after by the government as our history in Canada, which we have never been able to get recognized by any other government in this province.

I believe someone paid a \$100 fine for a small charge that had been laid, and that charge was non-capital murder. That's what the scabs paid for shooting people. The union was fined for various charges and \$27,600 was paid out by the union in that strike in 1963, and we didn't kill anybody.

The Boise Cascade strike in 1968: In the United States this company is proud to be known as the biggest union-busting company in forestry. They have a very good record of it; they love doing it. If you take a look at the logging industry in the United States, it has destroyed every union in existence that it has bargained with. I personally spent two years on this picket line. We were harassed by 300 security guards and 200 Ontario Provincial Police. It cost the taxpayers of Ontario over \$5 million to protect this union-busting company. The Department of Employment and Immigration advertised across Canada for scabs for Boise and paid for their fares to Kenora and Fort Frances to take our jobs.

This company was successful in destroying families and causing many marriage breakups, pitting father against son and brother against brother on picket lines. These communities will have hard feelings for generations to come. I know this from personal experience. I can tell you it was a long situation there for those two years we were on the picket line. We went through very difficult times.

Prior to the first month we were on the picket lines, the company had Bsed the workers into a great safety program and took all our pictures and made sure it had them all on file. A month after we were on the picket line, they took them all down—this came out in the courts after—to the police station and picked out the people they wanted arrested and taken off the picket lines. We had some 300 charges laid against people to get them off the picket lines.

We couldn't get into the courts to have them heard until about six months after we were on the picket line. At that point, out of 300 bloody charges, there were six people who were found guilty.

Two years after the strike, 1982, they sure as heck made it difficult for people around that community in Kenora and Fort Frances to get jobs with the contractors delivering any type of wood or products into the mills. I, for one, left the community and went out to Alberta in 1982. Lo and behold, I was on the street one day when Forsyth and Elinic, two of the OPP officers who harassed for years down there, made an arrest in Alberta and brought me back not only to my home in Kenora but here to Thunder Bay to lay 28 charges and threaten me that if I didn't concede and give them the information they felt was needed because of the pressure that was on the government at the time to find somebody guilty of some of the things that had been done behind the lines of the police and the security guards, I was going to spend 25 years in jail for every charge. And the harassment went on.

By the way, they dropped me off here in Thunder Bay out on Arthur Street and let me go back to Alberta on my own. Thirty days later I had to report back here to face the charges and they withdrew them all. How do you like that? Total harassment. That's what goes on with companies like Boise Cascade.

There are other examples, but time is limited here. We could spend probably all day talking about some of the situations. We've had some very recent ones, one down in Hearst with the Malette sawmill strike there that was a very difficult situation again, where scabs were charged with dangerous driving and you name it through picket lines.

We feel that the legislation which is in front of us is not going to solve our present problems because the companies will still be able to contract work out and purchase fibre from other sources.

## 1920

We feel it is a must to remove the loopholes or it will not work. We know that only a small percentage of companies try to bust unions, but we believe the government should not allow this to happen at all in this province. We do not understand why there is such an outcry against this piece of legislation. The present situation only protects a few union-busting companies.

First-contract arbitration: Organizing is very difficult in the logging industry because of workers being transient. Anti-union employers will move the workers constantly in a 600- to 700-mile radius in northern Ontario.

When we are successful in being certified, the real battle begins: to get a collective agreement. We have experienced up to 19 months of negotiations and 35 to 40 days of meetings before managing to reach a collective agreement. They hire lawyers to deliberately stall negotiations, hoping that workers will turn on the union and decertify. In this particular case, we had a standing meeting every Sunday to keep the workers together. That was the only way we could keep it going because they were trying to bust that bargaining unit up. It was a big company in this area, and was not one to let a union in to protect and bargain for their workers. They were determined that they were not

going to let it get in there. But we finally did, with the great determination between the workers and ourselves.

We feel that the 30-day period should be deleted and replaced by "upon application by the union it should be granted."

Provision dealing with timber limit holders: As we are the only union which represents workers in logging operations in forestry, we feel that one of the most important changes that we request would be a provision similar to what appears in the Quebec labour code dealing with the timber limit holders.

Attached to this memo is a copy of some portions of the Quebec labour code. Section 2 provides that the timber limit holder shall be deemed to be the employer of the employees. There is a definition of "logging operations" and a definition of "logging operator." If you look at all the portions we have underlined, you will note how we could have eliminated all the confrontations of the past and those of the present or future in the Ontario logging industry.

In talking to some people in Quebec, it is the understanding that the philosophy the Quebec government adopted was that as the timber limits are in fact owned by the province, by the people, then the person who gets those timber limits should be responsible, from a labour relations point of view, for all of those who are engaged in the logging operations.

We would request that the identical type of wording be used in the definitions section of the Labour Relations Act and the insertion of a similar section in the Labour Relations Act, with the deletion of the words "except those engaged in highway transportation."

To reach a position which is equal, we are embarking into a new era of international economic competition with the North American free trade agreement. The government had talked about a "level playing field." In Ontario we are well below that level. Previous provincial governments had ignored the legitimate interests of workers and the benefits that workers justly need and deserve. We are hoping that in time we can achieve the level that other provinces have granted to their workers to give them the protection they need. We believe Ontario should be doing the same. These amendments are one small step to get us to that level playing field.

Again, we urge that this bill be passed as soon as possible. Thank you.

**Mr Ward:** I'd like to thank you for coming out tonight and giving your two presentations, which I personally found very informative. I have just a couple of questions.

First of all, I'd like to focus on the secret ballot aspect of labour relations. We're hearing, basically, proponents in favour of Bill 40—groups and presentations support the initiative, although some say it may not go far enough. The critics are saying it goes too far. But I'm finding that when the critics give presentations, they are making a suggestion on the aspect of a secret ballot during an organizing drive.

I think the concerns that have been expressed about a secret ballot by the proponents of Bill 40 are that employers and their management representatives would use tactics or intimidation and coercion, subtle or hidden or very overt,

but still use them to sway their employees to vote against a union representing them. There have been suggestions that we can perhaps eliminate that intimidation.

The questions I have for the three of you are: Currently under the act, during an organizing drive, if you achieve 55% of the employees signing a union card, in essence we're counting that as their vote. If you have between 40% and 55%, there is a secret ballot vote. The critics of Bill 40 are saying, "We should have a secret ballot vote for the whole, no matter what percentage you have."

The question I have is: If we adopted a secret ballot approach in the real world, do you feel that intimidation and coercion and pressure tactics by an employer can be eliminated, especially as employer and management representatives have a captive employee audience for at least eight hours a day?

**Mr McIntyre:** I think the present system, with the 55%, is necessary to stay where it is. I just went through organizing a small sawmill down near Sudbury. Exactly what you're talking about happened. We ended up having to go to a vote, because we were working towards 55% when the company started to harass the workers, and of course all signing of the cards just about came to an end. I think we had about 53%, so we ended up with a vote.

I can tell you that those workers were totally harassed in that plant, because we ended up losing the vote. We knew that sawmill was ready to be organized because of the conditions and what was going on in there. I can assure you that the very same sawmill will probably be organized when this company doesn't come through with the promises it made; the workers will turn around and try to reorganize again. We went through it in many instances. The employer has total control of that workforce during the working day. They get their stoolies planted in there and they start the threats to the workers and it destroys the vote.

I went into that plant because of the section 8 we had filed. There was an agreement that we would have an opportunity to address the workers. Their workers were continually frightened all the time we were in there. I believe the 55% that is there presently should stay. There's no question in my mind about that.

**Mr Ward:** You're suggesting that, in your opinion, 55% signing a union card is in reality the vote.

**Mr McIntyre:** I don't think it's enough. It should be 50% plus one. That's what I would say. That's what our submission was back in January, and I still believe that because of the harassment the workers go through in the workplace.

**Mr Ward:** Recognizing that the workplace and workforce have changed, as I believe the representative from Dryden and District Labour Council suggested—and I don't think anyone will argue that it has since the 1970s—part of the initiative of Bill 40 is to allow or streamline the process so that if employees feel, for whatever reason, compelled collectively to say, "We want a trade union to represent us," we're hearing from proponents of Bill 40 that there are still obstacles in the way.

One that is constantly mentioned is the use of petitions. I'm not sure if you have any experience in organizing, but



I was wondering if you could relate some, if you have any, on how petitions and how they are currently under the act creates a real obstacle for the majority of employees who wish to be represented by a trade union.

1930

**Mr McIntyre:** Again, in this plant I just talked about, a petition was tried there. The pressure is on the workers that if they don't sign that petition whether they want to or not, they're going to be fired.

The problem with the petitions is that all it does is make the pension plans for these legal firms get bigger and bigger. My experience has been that I've never seen one petition get through the board, at least with our organization. The majority of them are eventually thrown out, because they're usually started by the employer, and it's usually proven that way.

Petitions are pressure on the workers, because if they don't sign it, then the individual who's taken that petition around runs back to the boss and tells him that so-and-so didn't sign it. We've experienced that; we had to file a section 89 in this very last drive. We managed to get the worker back to work, but that's what happens. The employer fires the employee because he knows damn well he's supporting the union.

Nine times out of 10 we win the 89s, but I can tell you it's very costly for a union to take these battles all the time to the labour relations board. My understanding is that the board was originally set up for workers to solve problems, but it's become a nightmare with legal technicalities that come on stream, and this is one of the very ones. These petitions become a legal bunch of crap for these lawyers to fill their pockets.

**Mr Ferguson:** I think that's important for us to hear as well, because that's something we haven't heard in the past, how lucrative the labour relations field is for the entire legal community.

When I read your presentation and hear what you have to say, particularly the limitations you have to work against—such as moving workers around because of the transient nature, the 35 to 40 days of meetings before managing to reach a collective agreement, the legal community working obviously on the company's behalf deliberately stalling negotiations, and having to meet every Sunday, hopefully not in the bush, in order to keep it together—when I read these buttons that say "The Struggle Continues," it's not just jingoism. Clearly in your view it is a heck of a struggle to pull it off, pull it together and keep it together.

I want to turn to a more important matter, and that's the worker replacement provision. As you know, what's being proposed here is similar to what's been in existence in the province of Quebec since 1978. Based on your Quebec affiliates' experience, I would like to know from you first hand how that provision has worked in that province, because despite the doom and gloom I'm hearing from some—not all—in the business community, I look at Quebec, where it's been since 1978, and obviously Quebec hasn't come to a grinding halt. I would really like to know what your experience has been with the affiliates.

**Mr McIntyre:** The experience in Quebec is that it has worked well or I'm sure the Bourassa government would have pulled it out, and we haven't seen the Liberal government pull it out; it's still there. In fact, they've done amendments to it since it was first put in in 1983.

I put it in my brief. It's only certain companies that want to break unions, and why are we protecting those companies? I think this legislation is a must.

It's worked well in Quebec, to my understanding. In the earlier years, prior to 1983, there were some very dirty and terrible strikes and real confrontations in Quebec. People were getting killed and everything else, similar to what I've explained we've experienced in northern Ontario as bushworkers. It's only certain companies. We negotiate with all the big companies in northern Ontario, but there's only the odd one that wants to put up the fight, like Boise Cascade and Malette Lumber.

Domtar, for instance—we went through a sawmill strike there—deliberately moved lumber from White River down to Sault Ste Marie and parked it in a parking lot in the Sault just to have our people uprise to try to stop it from going out. We ended up with six charges there, people now with criminal records against them only because of the irritation of the company—not wanting to do anything: They had no sale for that lumber whatsoever, but they made that move to get the workers upset, knowing damn well they would try to stop that lumber from going out. That's the situation that arises.

We really feel in northern Ontario, with the experiences we've had, that this legislation has to go through. I think it's going to be better for everybody. I don't see where the average collective agreement is going to go through that process, because that's not the way we negotiate. I think we have a very good relationship with the companies we deal with, so it's only those ones that want to take on the unions and bust us and kick the hell out of the workers.

**Mr Offer:** I have a series of questions. I thank you for your presentation. I note, Mr McIntyre, in your presentation, on page 2, you touched on the issue of vote on last offer. Would you support an amendment to this legislation that in all cases just prior to a strike the employees be given full information as to what has happened in the negotiating, what the union has asked for, what the employer has countered with and all the issues on the table and supporting an amendment which would say there would be no strike until a vote on last offer was taken and carried by the employees of the union?

**Mr McIntyre:** As the processes go on through the negotiations, of course you get into conciliation, and when a conciliation officer gives a "no board" report, you're going to be into a legal strike position within that 16-day period. We normally never take a strike vote until we're starting to go into mediation. Usually we try to get a mediation officer to get into negotiations. Even at that point, if substantial moves have been made we always take it back to the workers.

The thing I have a problem with on the last contract offer and what I would support is that there should be

some rules on who votes. This situation we went through—and this was not a new employer; we had had this agreement for around 30 years with this company. The employer that was there had bought it out about three or four years prior to that, but when we went to take the vote—we had no problems with the vote, but he was sitting there with a lawyer, and they piled on a bunch of names for voting, people who hadn't worked for that company for over two years, who were our members working over at Great Lakes Forest Products. We said, "Those people are not employees of the company and we don't feel they have a right to vote." We finally got hold of the deputy minister and found out that the rules and regulations were in the minister's head and he will make the decision.

This particular company was trying to contract out jobs from one of our other companies we had agreements with. We approached him to see if those workers would have a right to vote. He said, "Send the names down." We sent the names down to Toronto and when the officer came up to take the vote, he brought all the names with him, let everybody vote, everybody; some 100 people voted. We knew what was going to happen. Of course we were going to win to be on the picket line—there was no question about it—and we did. We had asked for that ballot box to be closed and segregate the ballots until we had some hearings to find out who had the right to vote. The officer said: "There will not be a closed ballot box. I have orders from the minister to count the ballots." So he counted the ballots, and of course we had won it about 80 to 14, whatever the heck it was. We were back on the picket line.

That's why I'm saying I can support something that sets out the rules of voting, similar to what we have on a certification vote. At least see who the employees are. We went through 30-some days of hearings over that case on that particular situation, and the board found there were eight eligible voters in the vote—how do you like that?—afterwards, after the vote had been taken. That's the problem we have.

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**Mr Offer:** By supplementary, we have here an opportunity to change the legislation and improve the legislation. The opportunity is that before a strike is taken, the last offer is put on the table for the employees to say yes or no to. I recognize the concerns of past experiences. We have an opportunity now to deal with those issues, to make certain that the problems which you have experienced in the past do not happen in the future. The issue is whether you favour as a general rule, in principle, employees having the right to say yes or no to a final offer before going on strike.

**Mr McIntyre:** I don't think that's proper or needed, because the employees already have that right. Our members have the right. If they call for a vote on anything, they have that right. Under the present legislation, the employer has the right to call for that vote if he wishes to.

All I'm saying is, set up rules of who has the right to vote. I think that's all that's needed. I can live with the legislation that's there. Just put some simple rules in about who may vote. Take a look at the employer's payroll and pick out who is on the payroll. That's all I request of it. I

don't think we have to have legislation saying there's going to be a vote on it, because that is quite normal, it's done with most unions I know of. So I can't support what you're saying, but I can support rules for who should vote.

**Mrs McLeod:** By extension, using your example of only eight workers actually being involved in a vote, do you think it would make some sense to have a requirement that any vote, whether for certification or a strike action, require 50% of the entire workforce in that bargaining unit?

**Mr McIntyre:** Can you tell me that again?

**Mrs McLeod:** I was picking up on your example.

**Mr McIntyre:** Can you close that door there? I'm having a hard time hearing.

**Mrs McLeod:** I was picking up on your example. In the interest of making sure that every worker has fair, democratic representation, do you think that one of the rule changes might be that for any vote, whether we're talking certification of a union or strike votes, the vote require 50% of the entire workforce, or in the case of a bargaining unit, the entire bargaining unit.

**Mr McIntyre:** Well, 50 plus one, that's what we always use.

**Mrs McLeod:** Of the entire workforce.

**Mr McIntyre:** Of the bargaining unit. Under the present legislation, all employees of that company have a right to vote. That's my understanding of the act right now. For instance, if the company called for a vote on the last offer, all of the employees have the right to vote.

The problem is that with the company I'm talking about, he had a bunch of owner-operators on the limits, and under the act, independent contractors are not employees of that company. That's another one we could get into an argument about, because we went through many days of hearings trying to bring independent contractors under that collective agreement. The present legislation does not allow it. That's what happened in this one. When we went through the hearings, the independent contractors were not allowed to vote under the act. That's what happened with that situation. They found then that there were eight people who were actually on the payroll of the company.

**Mrs McLeod:** Mr Chairman, before placing another question, maybe I should ask you as a point of order whether the ground rules for the evening have changed. Are we now doing full-hour presentations?

**The Chair:** No, what's happened is that the group that had been scheduled for 7:30 indicated it was not going to appear, and we were accommodating these people. If people don't have a full time allotment of questions, God bless, but if they do, go ahead and ask.

**Mrs McLeod:** So I do have time for another question.

**The Chair:** You'd better believe it, Mrs McLeod.

**Mrs McLeod:** In fairness to the Dryden labour council having come some distance to make its presentation, I'd like to go back to its brief.

Your brief focuses primarily on part-time workers and your concern for the ability of part-time workers to organize. Certainly I think we'd concur around the table that



part-time workers should indeed have the right to organize, as in fact the majority of them do now.

But one of the concerns we've been raising regarding the changes in this legislation is whether or not the right of part-time workers to decide which bargaining unit they want to be part of has actually been taken away, that the full-time bargaining unit can by a vote require that the part-time bargaining unit become part of the full-time bargaining unit. It doesn't take a majority vote from the part-time workers themselves to determine whether or not they'll have to become part of the full-time bargaining unit.

I wonder if in your concern for the rights of part-time workers, that would also be a concern you would have, that there might be times when part-time workers have a different community of interests from full-time workers and should by majority be able to decide what bargaining unit they want to be part of.

**Ms Wall:** I would expect that the part-time workers will be able to make that decision. In the majority of cases, part-time workers are the majority of people in the workplace.

**Mrs McLeod:** Even where they're a minority, should they be allowed to decide by 50% plus one which bargaining unit they should be a part of?

**Ms Wall:** Any time that I have seen a bargaining unit with part-time workers in it, they have made their decision quite freely and quite willingly to join the existing bargaining unit. They usually work very well together. I don't foresee it being any sort of problem whatsoever.

**Mrs McLeod:** I agree with you. I believe that people do exercise their votes responsibly and thoughtfully, so it wouldn't be a risk to the part-time workers to in fact allow a majority of the part-time workers to determine which bargaining unit they want to be a part of.

**Ms Wall:** I don't think so, no. In my bargaining unit we do have part-time workers and they actually approached us and asked to become part of our bargaining unit. That was their choice. Our bargaining unit has always worked very hard to ensure that the part-time worker has been considered fairly. The part-time workers have always felt that they have been considered fairly. I don't foresee it being a problem at all.

**Mrs McLeod:** I appreciate that, because we think it does become a problem with the legislation, in that it changes something which is now functioning quite well.

**Mr Tilson:** Continuing on with the part-time worker issue, the concern we all have is that with this legislation conceivably the full-time worker could force the part-time worker to become part of the same bargaining unit, even though the part-time worker may not wish to become part of that unit. I quite agree, if everybody's one big happy family, but there are many situations where they do have separate interests and quite different interests. The question we're trying to put to you is, is it fair that one group, namely, the full-time workers, can literally force the part-time workers to join a particular unit when the part-time workers may not wish to join that union?

**Ms Wall:** I'm going to pass this one over to Mary to answer.

**Ms Mary Aitken:** With my union, the part-timers are with the full-timers. They weren't always; they used to be a separate bargaining unit. We are now all one. We are in the process of bringing the part-timers up to our standard of benefits. The part-timers have always said that they don't get the benefits, so they actually appreciate coming in, being part of one bargaining unit.

Also, in the majority of cases, part-timers don't want to be part-time; they want to be full-time. They took the part-time because that was the only job they could get. I know of a lot of women in Dryden who have two or three part-time jobs because they couldn't get a full-time job. They've had to take as many part-time jobs as they could. It's also a misconception as to what determines what part-time is. To me, five hours a week is not even part-time, but that's what some of them classify it as.

**Mr Tilson:** I don't think we're denying the fact that part-time workers have the right to join a union which is made up of full-time workers; that's not the issue. The issue is, should they be forced to join simply because of a vote that's taken by the full-time workers? In your particular union, that may be the case, but this law that is now being put forward by this government says that if there's a vote taken by a combined group of full-time and part-time workers and the full-time workers pass the day, their vote carries notwithstanding the position of the part-time workers who may not wish to join the union. The part-time workers will be forced under this law to join that union. That is the question: Should they be forced to join a union they don't want to join?

**Ms Aitken:** But they're not in a union they don't want to join, they're in a different bargaining unit, right? They're already in the union.

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**Mr Tilson:** No. I'm talking about a group of people who want to certify. The votes of the interests of the part-time worker and the full-time worker could be quite different, whether it's seniority or whether it's pension rights or whether it's the fact that they simply don't want to pay union dues. They may, as you say, have a whole series of part-time jobs and they don't have the slightest interest in gaining seniority or having pension benefits. All they want to do is to have a series of part-time work. There are all kinds of people who don't want to have full-time work; they want part-time work and they don't want to pay all those benefits.

I'm simply saying, if they want it, if they want to join, I think we all agree, they should have that right. The question we are putting to you is, should they be forced to join?

**Ms Aitken:** Can you tell me of a unit that's got full-time unionized and part-time who aren't?

**Mr Tilson:** There are all kinds of jurisdictions across North America, as I understand it, where they make an effort to distinguish the two groups, that they are not being forced to join.

But I would like to get into another area and that has to do with the issue of certification. This law, Bill 40, is designed to make it much easier to certify. I would like you to

comment on whether you would concur that there should be amendments to make it equally as easy to decertify.

**Mr McIntyre:** Right now, the present legislation does allow you to decertify and the—

**Mr Tilson:** I'm afraid not, sir. I can tell you, in my own riding there is a group where there was a strike and the workers came to my office because they felt the union bungled the job. They said, "How do we get rid of this union?" They found it very difficult to get rid of this union.

**Mr McIntyre:** There's an open period that comes 60 days prior to any collective agreement opening and that group has a right to leave that union at that time and that's an open period that's there. They can either go with another union or they can decertify.

**Mr Tilson:** Would you agree to any amendments or would you concur as to any amendments that might be put forward to make it just as easy to decertify as it is to certify?

**Mr McIntyre:** I think the present legislation for decertifying or transferring over to another union is adequate. I don't really think there need to be any further changes. I think if a membership is that dissatisfied, they are going to leave and they'll leave in that open period.

**Mr Tilson:** Let's just talk about that, sir. Let's talk about the fact that now the petition process will be gone by this legislation. There is no process that if workers wish to change their minds as a result of a certification process, after they have become more informed about the process with the legal rights they have or the lack of legal rights—they have now lost their legal rights in many respects, they can't change their minds.

The petition process will be gone and that is why I'm asking you a question as to whether you would concur. You may not agree with the petition process and you may be legitimate. Your position may or may not be correct on that, but would you concur in another type of process that might make it easier for employees to change their minds as to the whole certification process or simply to make it much easier for them to get rid of an incompetent union?

**Mr McIntyre:** Like I said, there is that open period. If they get certified and the collective agreement is put into place, if it's more than a three-year collective agreement under the present legislation, at the three-year period that 60-day open window is there and that group of workers has the right to decertify at that time or transfer to another union. That is there.

I think you need probably two or three years for the workers to be able to understand how the union functions. After all, most of the time, when you get into a workplace where there isn't a union, the workers there probably do not understand and they take the two or three years to get to know what the union's all about and to get to know they're the people who make the decisions.

It's not somebody like me who services people; it's the membership that makes those decisions. They have the right, at that open period, to be able to leave.

**Mr Tilson:** Mr Jackson has one question, but I'd like to get back to the whole question of the initial certification process. Sir, if you buy a refrigerator, you can change your

mind. You've signed a contract and you can change your mind within a specified period of time. There are consumer laws that protect you from changing your mind if you buy something, because you may not have understood what you were getting into. You may not have understood the payments. You may not have understood a whole slew of things. With the labour legislation that's now being put forward, there is no way to protect employees from changing their minds. They're stuck with that union.

**Mr McIntyre:** I can go back to where the petitions have not served any useful purpose, and 99% of them have been thrown out. The present 55% has been there for years. So I really don't see why there have to be any changes, because it has been working. It's been working quite successfully.

**Mr Tilson:** Sir, there's now no protection to the employees to change their minds—none. The employees lost their rights.

**Mr McIntyre:** Like I said, your refrigerator is a hypothetical question. The thing I see is that the present 55% has been there and it's been working well. The petitions have been a situation where 99% of them are thrown out when they get to certain—

**Mr Tilson:** But, sir, now the employees will have no rights.

**Mr McIntyre:** Oh, yes, they do. They have that right when that 60-day period opens up, when that collective agreement is there.

**Mr Tilson:** Mr Jackson has some questions.

**Mr Jackson:** Mr McIntyre, certainly after your telling us your personal story, one gets a clear sense of how deeply devoted you are to the labour movement. I respect that. However, I was listening carefully to your presentation. You expressed some concerns about the great boondoggle for the legal community, whether you're a labour lawyer or you're a management lawyer. But we have heard testimony that the demands on the labour relations staff in this province are going to be monumental.

I think that implicit in my colleague's question might be, would you not, on balance, rather see the activities of the Ministry of Labour focused on the certification process than the long, arduous and expensive process of decertification? By putting it in that context, I'm trying to respect where you're coming from in the labour movement. But we're struggling with the notion of not just simply the legislation in this period of restraint, but just what kinds of resources we're going to have and what will be the fallout.

I couch it in that context. I'm trying to sense more your concern about a process which, once it's taken to the Ministry of Labour, is fraught with difficulties. Certainly decertification will continue to be that kind of process in this province.

**Mr McIntyre:** If the employees make that application to decertify, again it's in the board's hands if it'll come in and take a vote of that decertification. I really don't see where lawyers have to be involved at all. I can give you an experience I've just gone through; in fact it was on my desk this afternoon.



We had a bargaining unit that got downsized because of technological changes. It wasn't a big unit; it was five people at one time and it got down to one. This individual was approached by the company to come on staff. He came over to us and said: "You know, I'd like to get rid of the union, because look at all the good benefits I'm going to get by going on staff. So I'd like to decertify."

I can tell you that the application is on my desk today. I waived the hearings on it because if that's this individual's choice, then let him go. I don't want to stand and fight for somebody who doesn't want to belong of my union.

**Mr Jackson:** Finally, I ask this: Earlier, you talked about harassment and you were gave us the example of a Quebec experience you had. You said the ultimate result was a failed vote and that you had hoped it would turn around because the company had ultimately lied. I'm rather confused. Are they harassing these employees or are they lying to these employees? Are they being harassed with more pay, are they being harassed with better working conditions or are they being lied to? I'm sorry I had to put a fine point on it, but I was following your line of thinking. You recall your presentation? Do they harass them or do they lie to them? I'm trying to understand which it is. It's hard to be both.

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**Mr McIntyre:** Well, they do both.

**Mr Jackson:** Harass me with a raise. I'd like to hear that once in a while.

**Mr McIntyre:** They do both. First of all, they lie to the employees, because they promise them all the good things they should have had all along as far as benefits and what have you are concerned, but once the union doesn't get in, none of the benefits happen. The other part of it is that there is harassment, because they're threatened that if they go ahead and bring the union in, certain things are going to happen, or they're fired or what have you. Those are the two things that happen during an organizing drive.

One of the big companies here that has been fighting unions for years probably cuts about 800,000 cords of wood. I'm not going to mention any names because I'm sure local people know who I'm talking about. But that individual promised the world to these employees. We went through three years of hearings, fighting over independent contractors, ending up losing the hearings.

Two months later, when the employees found that all those promises never happened, we signed up 95% of the cards and were able to certify into that group then. That's exactly what happens: Nine times out of 10, the employer does not follow up. If I were an employer, I sure as hell would make working conditions better, because I believe that if working conditions are good in a workplace, the union doesn't come in.

We had a MacMillan Bloedel plant here in this city for 13 years—it had about 150 to 160 employees—that was never certified by a union. I can tell you we tried, the CPU tried and another union tried and were never able to get in there, because those workers were satisfied with the conditions they had because they had good benefits and a good working relationship with that company. I always say that

the only time a union comes into a workplace is when the employer is mistreating the workers. That's when it happens.

**The Chair:** At that, sir, we say thank you to Alma Wall and Mary Aitken, appearing on behalf of the Dryden and District Labour Council, and to you, Wilf McIntyre, appearing on behalf of International Woodworkers of America—Canada, Local 2693. We thank you for your participation here and for your interest. You've obviously provoked a great deal of response from members of the committee. You've made a valuable contribution. Take care.

#### THUNDER BAY AND DISTRICT INJURED WORKERS SUPPORT GROUP

**The Chair:** The next participant is the Thunder Bay and District Injured Workers Support Group, if those people would please seat themselves at a microphone. Make yourselves comfortable, feel at home. Tell us your names, your status, if any, or titles with the group, and proceed to tell us what you will.

**Mr Steve Mantis:** Thank you very much, Mr Chairman, and thanks for the opportunity to appear before you today. I'm glad to see you could make it up to Thunder Bay. Sometimes we get left out, being so far away from Toronto. I appreciate the effort.

My name is Steve Mantis, and I'm the treasurer of the Thunder Bay and District Injured Workers Support Group. George Caissie is the president of the organization.

We're an organization that started in 1984 in response to legislation that was at that time, pending an amendment to the Workers' Compensation Act, Bill 101. Our membership is around 330. We are an organization of injured workers, a voluntary organization with no staff, made up primarily of injured workers and their family members or supporters.

Our main activity is in the area of public education and reform of the system, both through law reform and through policy reform. We offer a newsletter that goes out every two months letting people know about current happenings in the Workers' Compensation Board as well as health-related issues. Six times a year as well we offer public information sessions, which are free of charge, to the public to come and learn more about workers' compensation and related issues. Our belief is that as people become more educated, they're able to make better decisions and therefore lead a better life.

The reason I'm here today is that actually I got a little upset. I have the opportunity to travel to Toronto on a fairly regular basis, and walking down Bay Street, I saw this big billboard talking about how many jobs are going to be lost in Ontario because of—what was it?—Buffalo Bob's folly or something, which is what we're looking at today, the labour relations. I'm going: "Wait a second. What's going on here?"

We look around and ask: "What makes a system work well? What makes a team work well?" It's when people are pulling together, and it seems to me that in order to work together, you have to have a system that allows people to participate. That's basically the idea around unions and organizing.

It was interesting when I heard the fellow from the chamber of commerce this morning. He said that business develops attitudes maybe not because they know the facts, but it's feelings, and those feelings help determine whether they're willing to invest or not. It seems kind of strange when that same business community is what's creating the mistrust and hysteria that then influences their fellow business people to say, "Jeez, I guess we're going the wrong way with this labour law, because there's hysteria out there."

What if we think about it for a second, rather than trying to portray our vested interests?

I think what we really need to do is build a vision for the future, a vision that includes all of us, and the only way we can include all of us is by having structures that allow people to choose representatives to sit down together at a table and talk about the issues that affect us.

One way we've done that is that we have a government, and you all are elected through a process similar to that. The process of workers joining together to be able to choose their representatives is very much the same process. When people say, "We don't want that to happen," I really question where they're coming from. I believe in democracy, and I sure hope you do too.

I get a little cynical sometimes. It seems that what it comes down to is that people don't want to share power, they don't want to share their control. It's not only employers, it's something that happens right across our society, but in the context today, that's who we're talking about: We're talking about a group of people who own the factory, own the business, and don't want to share that power with other people.

I think in our society today we're recognizing that that's not fair. Look at the situation in a marriage. It used to be that the man said, "This is the way we're going to spend our money," or whatever the decision, and that's the way it was. Now as a society we've decided that's not right. These are equal partners. They both get to have a say in what goes on. That's what I hope you as our government will begin to show some leadership on, in saying, "Let's find a way to share this power."

We as injured workers have seen this from firsthand experience. We're the people who get hurt, who oftentimes are out of work, and we're at the low end of the scale. We've lost our power. The way we've been able to overcome that is by joining together, by organizing ourselves and saying: "This system doesn't work for us. We want something different."

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Our goals as injured workers revolve around empowerment of injured workers to gain control over our own lives. We want to go back to work. Through the process of organizing ourselves and putting out our concerns, the government has begun to listen a little bit. Now there is a greater acceptance that we should start looking after injured workers, we should start seeing if we can't get them back to work. The funny thing about it all is that saves employers money. So in this one example we see that empowerment by listening to the people who are most affected by the process that's taking place can result in improvement and, on the part of employers, in actually saving money, increasing

profits. I've got nothing against that as long as we also gain through that.

But we've experienced very limited success in this area. It seems it's because people don't want to share that power, don't want to share that control they have, whether it's the bureaucrat on the front line who sees that he or she has something over you because he or she controls your paycheque or whether it's people at the top of the administration of an organization.

We have a proposal in to the Workers' Compensation Board and a number of organizations to set up a system to assist injured workers to gain control over their lives, to get back to work, something that's actually going to save the system money. But people don't want to sponsor something like that because it's giving up something: It's giving up their power to make the decisions, to run the show. That's a really shortsighted view. What we've got to gain here is something that can benefit all of us.

Power-sharing can work. By including people in the decision-making, by giving workers more power in the decision-making process, it's funny: They get more productive. In occupational health and safety, which is the area in our workplaces that has achieved a greater percentage of this power-sharing than other parts, studies have shown that where you have good committees that are joint health and safety committees with representation equally from both parts, not only is it a safer workplace but productivity increases. You share that decision-making and people benefit, both sides benefit.

We look at the European experience, which has been brought up here a couple of times today, where in a number of countries they have systems that are based on equal sharing between workers and employers. Now I'd like anyone to show me how Germany is suffering economically because of this process. They are on the top of the heap.

In terms of injured workers, we're saying what we want to happen is we want the accidents to stop. We want better treatment of injured workers. We want more people to return to work. You follow these systems, once again both sides benefit. We look at a model, once again like Germany, that actually does this, that puts the benefit of the workers at the very top. What do we see? We see the system costs a little bit more than half of what it costs here in Ontario. They've put a lot more people back to work and they have a lot fewer accidents. It is a system of codetermination, with equal participation of workers and employers.

We turn to another example, our management consultants. One of the trendy ones in the last 10 years is Tom Peters's *In Search of Excellence*. I went to a seminar—I believe it was in the same room here—a couple of years ago on *In Search of Excellence*. What did they talk about? They talked about giving the staff more control. They talked about allowing the people in the front line to make decisions and giving them authority to make those decisions and supporting them once they made those decisions. I think that's the basis of what we're talking about here today.

I think that the one section in the new amendment here of Bill 40, section 44.1, talks about consultation on workplace issues where within the life of a collective agreement



consultation should take place on issues that affect both parties.

While we look at new pieces of legislation and practices that are coming up, we need to be able to have a structure to be able to have that consultation. One example is employment equity. In employment equity, we see that the workers are to be consulted in the development of an employment equity plan. Well, which workers? In a unionized shop, you've got a structure where you can elect your representatives and then you can hold them accountable. When the election comes up you can make sure they don't get back in. But in a place where there is no union, how are those people selected and how are they held accountable?

The same with current trends in workers' compensation. We're seeing now that one of our goals has to be re-employment. How does that happen? That happens best when the parties at the workplace, both the workers and the employers, work together to make that happen. How do you do that? Which workers do you include in that process to ensure this person gets back to work? Once again, we need a structure to be able to make those choices in order to facilitate this process.

I think actually we need to go beyond what's happening in Bill 40. I think we need to look at ways that we can include workers in some of these decision-making processes who aren't members of unions. I think we need to look at different models, whether it's broad-based bargaining or whether it's work councils like they have in Europe that are elected by the workers, because it's only through including people, by allowing them some power, by allowing them to participate through a right of participation, that we're going to move forward in Ontario and build a better society here. I think that's our challenge. Thank you very much.

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**The Chair:** Thank you. Mr Offer, Mrs McLeod, Mr Eddy.

**Mrs McLeod:** Maybe just as a leadoff question, I really think we have to come back to the fact that the right to organize, the right to join a union, is not at issue in this legislation. Nobody's proposing that the entire Labour Relations Act be repealed and the right to unionize with it, so it's a question of the impact of these particular changes. I think everybody around the table would agree with you, both those who are supportive of these legislative changes or those who are concerned about them, that what we really need is a higher degree of cooperation, that we need less confrontation, that we need more joint effort.

You've talked about alternative models. One of the regrets some of us have, including some of the advisers in labour law—or adviser, singular—the government has consulted, is that he has said that there are not enough alternatives for a dispute mechanism included in this particular legislation and that, as a result of it, there's not likely to be a lot of progress in terms of non-confrontational resolution of disputes. So I think much of what you said we would strongly agree with.

I wonder if you feel if there is a reason, given that, why it wouldn't be appropriate to take these major changes, and

in the name of the plea you've made for consultation—and I know how strongly you believe in that—have even the Premier's committee on business and labour that was set up to look at labour relations look at how this legislation could be strengthened so that it would serve the purposes you've described.

**Mr Mantis:** Well, I'd be interested to know how you speak to the people who are taking out those ads on the billboards, because that's who doesn't seem to be getting the message. That doesn't seem to me to be cooperation. That seems to me to be confrontation. That's it really. I don't understand what all the fuss is about. What's the big problem here?

**Mrs McLeod:** Again coming back to the question—and I think Mr Offer has another question, so I won't prolong it—I guess the question is the one you've raised, which is, what is lost by having the kind of consultation which you've described in trying to offset some of the sheer frustrations of a sense of not being listened to that I know you've felt yourself in the past in what you've tried to do for injured workers and have succeeded largely in. Maybe it's that kind of non-listening, non-consulting environment we need to get past on both sides in this.

**Mr Mantis:** Indeed I think we do need to be listening more, by all means.

**Mr Eddy:** Thank you for your presentation. I'm very interested in your views on democracy and cooperation, two things I've been interested in and tried to further during my working years.

One of the members of the committee said earlier today that anyone who speaks against the bill is against any changes or modernization in the present Labour Relations Act, and that's quite incorrect, because many of us are very interested and in fact want to see changes and realize the need for changes. But when we talk about democracy, we believe in the democratic rights of the worker to join a union, but to decide not to join a union or have an association, and indeed to change one's mind from not having a union to wanting one and vice versa. I'm very strong on that.

In the matter of cooperation, what's your opinion on negotiating changes to the Labour Relations Act? In other words, we feel a committee perhaps, and to have representatives of employer groups, employee groups and government sit down and come forth with the proposed changes, rather than going through the process we have, which is very incomplete because a lot of people don't get the opportunity even to appear before us. Do you have a view on that?

**Mr Mantis:** I have to frame it in my own experience and that really has very much to do with workers' compensation. A task force just released its report on the level of service delivery and rehabilitation at the Workers' Compensation Board. This was a task force made up of representatives of workers and employers. I believe there were 42 people from across the province who participated. So it was two sides, rather than the three sides as you were laying out.

What we saw was a report that was very well done with an amazing amount of agreement. It seemed to me

that by these two parties working together on a specific issue, they were able to agree on probably 80% of what each individual side wanted to see in that report. So I think a process like that can work.

**Mr Jackson:** Mr Mantis, I listened to your presentation carefully. I want to focus in on your reference to democracy, whether we believe in it, and what groups don't want to share power or control. Perhaps it's because I've participated in certification processes with the Ontario Labour Relations Board on several occasions and I've always had a lot of respect for private ballots. In a sense, they take all the pressures out of the process and people can just quietly go in and register under supervision their ballots and they are counted and supervised.

I want you to respond on how you feel about the rights of individuals to cast ballots of their choice, informed ballots. Certainly the amendments in this legislation will allow for a more informed environment. You raised the issue of democracy and choices. But would you not agree that the private ballot in matters with respect to certification just takes any pressures from the union or the pressures from the management to an individual?

**Mr Mantis:** I'd be hard-pressed to respond with a yes or no, because there's a whole lot more to decision-making than whether the ballots are private or not. How the process takes place, what level of education there is and what opportunity there is for debate and discussion are all factors that have to go into designing a system that's going to work for all parties. So I don't think I could answer it so simply with a yes or no on a secret ballot.

**Mr Jackson:** You talked about balance. People are talking about the rhetoric of joint this and joint that, of management sitting down with labour. It has just recently come to my attention, for example, that the industrial training advisory committees that operate throughout Ontario have certain federal and provincial support. They have balanced representation of labour and management in terms of developing proper training mechanisms. Yet recently the government announced that all or any groups would be considered to provide the funding for the Jobs Ontario program but specifically said that these advisory councils could not act in that capacity.

Although you use the billboard in this example, and you've used the word "unreasonableness" and so on, there are some questions out there as to whether or not there is a sincere commitment when opportunities such as job-training dollars, which is what you're here in part to talk to us about tonight, when a strong working vehicle with labour and management is completely bypassed in favour of groups that have solitary representation.

Were you aware of this? As a spokesperson for injured workers and for the differently abled in our community, how do you feel about that approach? Is it going to be a truly balanced approach or is it part of the rhetoric we're hearing from both sides?

2030

**Mr Mantis:** I'm not familiar with the example you're bringing up. We have been active in stating our case that as injured workers and as people with disabilities we want to

have a say in the process of training. It's an integral process to us to achieve productive employment that's going to be long-term employment, and we're very interested in having a role to play in that process. But in terms of the actual example, I'm sorry I don't know about it.

**The Chair:** Mr Hayes, do you want to give Mr Jackson some of your time?

**Mr Hayes:** Not really, no. Some other time.

**Mr Jackson:** I'll yield to the senior statesman.

**Mr Hayes:** Thank you, Mr Mantis. I'm very pleased to hear some of your comments, especially about your vision and the vision of injured workers about working together. I think that is what this legislation is really intended to do.

I'm going to talk from experience, because I was health and safety representative for 16 years. I do know that it has been proved that if you can clean up or make things healthier and safer in a workplace, things can become more productive and improve quality and also profits. It has been proven. I could cite several cases, but I'm going to let some other people say a few things here.

As you were saying, one of the important things we have to do is stop the accidents, get people healthy and back to work, and also have them treated in a decent manner. I think all those things are very important, and I believe that if all employers felt the same way, we probably wouldn't even be discussing this type of legislation because it might not be necessary.

I know that a lot of people have the fear that whenever you change legislation or bring in legislation that's going to assist workers, there are always those scare tactics out there: "We're going to close and we're going to move out of this country," and all these kinds of things. We went through these kinds of statements and arguments when we talked about health and safety, Bill 70 and Bill 136, wasn't it? I and the union I was with argued very much that who knows better than the person on the job as to what we should do with that job and how that job should be done?

When I first got into health and safety—and I don't want to go on here too long, Mr Chair—I remember the first time the government inspector came into my workplace. He informed me: "This is not the union's inspection. This is not the company's inspection. This is my inspection." At that time, they used to just walk right by the union office and turn their head the other way so they wouldn't have to look at the chairperson in the office. I took steps at that time and said, "Fine, you don't need me, but I'll go out and I'll have to do things my way." It was almost intimidating.

But things have changed now where we have organized workplaces, where there are joint health and safety committees. One of the examples is the ergonomic committee. I was responsible for putting together some of those programs with Ford Motor Co and CAW. I don't know of any places that have an ergonomics committee, for example, that are not organized. Your presentation made me think about that because those are the kinds of things that we talk about: fitting jobs to the people and not trying to change the people to fit the jobs. I think that's very important.



I don't want to go on a long time, but do you feel that these changes to the act, Bill 40, are going to address some of those problems. Could you elaborate and tell us how? Because you were looking at ways of including workers and of course educating workers. You certainly have a better workforce in terms of quality and in other ways if you have an educated workforce and people working together for the benefit—

**The Chair:** They really do want to answer that, Mr Hayes. Please let them.

**Mr Hayes:** Yeah, let them go.

**Mrs McLeod:** Is that answerable?

**Mr Mantis:** Yes. I think the example of your own experience shows that allowing that process to happen, in fact making sure it happens, is going to benefit both.

I was very pleased. I spoke at the health and safety conference for the papermakers' association here. I think they are the first safety association that has gone fully bipartite, workers and employers running the association. I was ready for all the normal controversy between the workers and the employers, but they all said: "Hey, we get along great here. Our accidents are cut down. This is working good." As in the example I used, health and safety is one of the first areas where we've seen that equal partnership working together. I think it can really work well for the benefit of both sides.

**Mr Hayes:** I have no further questions.

**The Chair:** I want to thank both of you kindly, Steve Mantis and George Caissie, for appearing this evening on behalf of Thunder Bay and District Injured Workers Group. You have brought a novel perspective to these hearings, and the whole committee very much appreciates your being here. I trust you will keep in touch with committee members and with other MPPs and make sure they continue to know your views about this and other important legislation.

#### NORTHWESTERN ONTARIO STEELWORKERS AREA COUNCIL

**The Chair:** I should remind people, while the representatives of the United Steelworkers of America seat themselves, that transcripts of your submission or indeed any other group's submission are available, by way of Hansard, through your MPP's office by contacting your MPP or by writing to the clerk of the standing committee on resources development at Queen's Park. Those of course are free of charge.

People, please tell us your names and your titles and proceed with your submissions.

**Mr Francis Bell:** Good evening, Mr Chair. My name is Francis Bell, and with me are Rob Smith and Tom Jameus. We'd like to thank you for coming to Thunder Bay. As usual, the Steelworkers are left to finish off the evening. We hope to provide you with some interesting ideas and solutions.

I'd like to tell you first that the Steelworkers area council, better known as the Northwestern Ontario Steelworkers Area Council, extends as far as the Manitoba border to the west and as far east as the Manitowadge turnoff. In reality, what it means for our people is that they have 1,000

kilometres to travel from the farthest-east local union to the farthest west. If you put that in perspective for southern Ontario, where most of you come from, I guess you'd be travelling two or three times to get to where we are in the north.

I'd also like to tell you that the area council has a predominant proportion of members coming from the mining industry but we do represent people in all sorts of sectors. Those include municipal employees, the bus travel sector, restaurant employees, the electrical wholesaling industry, the steel fabrication industry, the shipbuilding and general repair industry, and we even represent another union's servicing staff. I think it tells you that we are well versed in what's happening in labour relations across this province, especially across the northwest.

You may wonder what makes up the Steelworkers in northwestern Ontario. Our members are women, they're natives, they're immigrants, they're injured workers, they're men—they're everybody. If you look at our membership, you'd say we would be the average right across the northwest.

#### 2040

You may wonder, who is Francis Bell? To give you a bit of background, I've had the privilege of being an organizer, of servicing local unions, of negotiating contracts and being a licensed security guard. I sit here tonight probably in a different position than most people, because I've represented management at negotiations and represented unions at negotiations and I've headed up both sides of the table, so I can probably talk to you with a pretty balanced perspective, and I hope you will listen.

We're here tonight because we believe the economy in Ontario has been devastated. We're here because we think the free trade deal and the GST have hurt this economy, but most important, we're here because we think the Labour Relations Act has to show equality, that being between business and labour. If you think they're equal now, I hate to tell you, but I think you're in an oxygen-deficient atmosphere. We think changes are needed in Ontario and we think, most important, that workers have to be empowered. They have to have the right to say things. They have to improve Ontario. Business isn't going to do it alone.

Today we're going to try to focus on three areas. The first is now known as section 46, expedited arbitration or single arbitrator, whatever term you wish to use. Second, we're going to talk about security guards and, third and most important, we're going to talk about joining unions.

The original intent about section 46 was that it was going to be expedited arbitration. I can tell you right now that labour lawyers and those who don't represent us but who represent the chamber of commerce, who were here this afternoon, all four of them, have had a practice of destroying what section 46 was about.

Section 46 was to get a grievance heard in an expeditious manner. It doesn't happen now. What happens is that you have your hearing in 21 days, but you have your first day of hearing and after that you're stuck with trying to get a law firm agreeing to dates. If you wonder why we are so emphatic about it, we have grievances that have been in

the hearing process for over two years, grievances that are worth over \$3 million to memberships.

Why are they there? They're there because what they're hoping is that by the time the decision is made, that mine will be shut down and the employer won't have to pay out that money. They're there because labour lawyers—I don't call them labour lawyers, by the way. I call them management lawyers, because they don't represent labour, they represent management.

I put it to all of you on this committee that if changes aren't made to section 46, you're going to see workers get more and more upset with the government and with the opposition parties. My question to you and to the members of this committee is quite simple: Will you assist aggrieved workers or will you not? I want to take this time to say this very emphatically to you: The choice is yours for now, and I do mean for now.

**Security guards:** There's been lots of talk over the last couple of weeks about security guards. Who do they represent? Who should represent them? Should they have the right to join a union?

From my experience as a uniformed security guard at one time, if you said the word "union," you were told, "There's the door." "Union" was not a nice word to say, because you were supposed to protect people and property, but actually it's in reverse: "Protect the property before you protect the people."

Who protects them? Who protects that security guard who's earning minimum wage, who's being told: "Protect that property. That's your job, and if you don't do it, you're fired." They're being told they're just like police officers. I can tell you they aren't like police officers, and police officers don't believe they're like police officers. Security guards are high-paid—and I don't mean the guard. I mean the guard's employer is well paid. The security guard himself is not well paid, but they're expected to carry the load. Again, it's the worker out there in the workforce who has to do the job.

I want to tell you that I was serving as a Steelworkers union representative when we lost our legal right to represent security guards to the court challenges. I also want to tell you—and I've never had this experience in my years of being involved in the labour movement—that I had security guards phoning me up at night saying to me, "Francis, I know you can't talk to us and tell us what we can do, but if I told you something in a theory-based idea, would you kindly give me what a theory-based answer would be?" What they wanted was some help. Could I give them the help as a representative? No, I could not. The court had ruled that section 12 forbids us.

There's been a suggestion in Bill 40 that section 12 be removed. I hope all of you, and I say all of you, will in fact agree that section 12 should be removed. Security guards have the right to be organized, and it's a right that has been long overdue to them, and they have the right to be organized in a union of their choice.

This committee should clearly understand that security guards are workers who must have the opportunity to (1) join a union of their choice, (2) bargain for their working conditions, and, most important, (3) be treated with

respect. Security guards are considered second-class citizens and they're considered add-ons to a company, and I think that is wrong. Brother Smith will talk to you about joining unions and the 50% plus one versus 55%.

**Mr Rob Smith:** Good evening. My background in steel is that I represent my members at the shipyard where I work. As well as doing that, I specialized and have gone into the teaching of health and safety, compensation and some other angles. From my angle and from what we've seen, what I'm here to tell you today is very simply that if you have people who wish to join a union, all that we feel is necessary is 50% plus one.

We have here in this country a democratic system whereby we go ahead and elect politicians with less than 50% of the popular vote. Today we have a Prime Minister whom we certainly didn't vote for. We think it's eminently feasible that for automatic certification, if the simple majority is there, the simple majority rules. That's the way it's played in this participatory democracy we have, and that's the way we'd like to see it in the Ontario Labour Relations Act.

On the issue of intimidation and strikebreaking, I wish we could say that we don't know of countless examples where, when an organizing drive is on, employers have gone ahead, by means fair and foul, and tried to intimidate workers in order to prevent a union from coming in and being organized and then certified.

We basically feel that the entire thing here is education. The education out there about unions, we feel in the main, is that unions are perceived as big, powerful and vicious. The media smear that has gone on in this country on big unions, in this province particularly, is that we're always considered to be big and powerful and we don't represent simple working people. That's just not the case.

The intimidation that we feel starts basically in our society in school. I went to school and never once, beyond talking about what a trade union was, were there any examples of how the trade union movement went ahead and became organized and fostered the standard of living that we have today, the way we work, live and other things. We've made a substantial gain in the prosperity of this country and this province and we would like to see recognition coming to us when we do simple things, like when we participate through the Steelworkers' humanity fund or through the United Way, and not just have you hear about us in strike situations and how they're vicious.

## 2050

It's with this mindset that comes about, "Oh, good grief, you're talking about a union," that we say to you that a union only becomes necessary when a workplace and the people who work in it have gone ahead. They have been intimidated in some way, in some form, and they finally say: "Enough is enough. We have the legal recourse and we want some sort of protection." It only comes about because somebody has been abusing the basic rights that we have as humanity. Like they said, we're not going to take it any more, and one of the avenues is forming a union so that collectively the wishes of the employees are brought to bear.



We tell you that all the falderal we've heard in this campaign, during this consultation process, is that we want to be part of it, but we want it to be fair. We have ideas just like everybody else and we'd like to be heard about them.

On the issue of strikebreaking and whatever, we basically feel that if you give us a fair shake and give us some reasonable opportunity to come to a bargaining table with reasonable means of negotiation, if you don't go ahead and threaten our job security with strikebreakers, you'll see that collective bargaining can work.

I'd just like to talk a little bit about petitions. Petitions are the employer's last-ditch attempt to remain union-free. Some of you committee members may not agree to acknowledge that petitions against unions occur, because it's the wish of the employer; it's not the wish, most times, of the people who work within the workplace.

I'd now like to turn this over and go from being a general topic on petitions to a specific topic of where we've actually been. With that, I'd like to introduce Tom Jameus from Schreiber, Ontario. Thank you.

**Mr Tom Jameus:** Mr Chairman, ladies and gentlemen, I see we're running a little late here, so I'll be very brief.

I strongly support the changes to the act equalizing the terminal date and the application date. In all three of the organizing drives that are on our property, in between the time of the application date and the terminal date, which was a week later, the company, in all three instances, managed to have a petition run on the property through one or more workers, which put us into a situation where we had between 60 and 70 cards signed in each one of the organizing drives. These cards showed, we thought, the desire of the people in the bargaining unit who wanted a union. Unfortunately, the petition backed by the company in all three instances destroyed that and put us into a long-drawn-out battle before the OLRB that cost a lot of money.

In the brief, you will see that on page 15 there is an example of estimated costs for the company petitioner. This is a very conservative estimate, as far as I'm concerned. The total is \$12,700. I don't know of anybody within my bargaining unit who has \$12,700 that he wants to spend on getting a union away from this property. There is no doubt about that.

The original petitioner in the first union drive was a gentleman I got to know very well. After the drive was over and we lost that particular organizing drive in a vote, two weeks later that individual quit and went to Pickle Lake, and there he organized a union in that mine.

Through the process, we found out from the individual that he brought the lawyer's bill directly to the personnel manager and gave it to him. Because of the lack of time, I'm not going to get all excited about the other things.

There are a number of things, though, that I would like to point out. When you have a termination date and a petition takes over, you not only create animosity among the workers through the ensuing time it takes to certify the union or get into a vote position or wherever you're going to end up; it also creates all kinds of turmoil on the property.

It creates all kinds of angers and resentments and it makes it very difficult, within the workplace, to do your

work in a comfortable sort of atmosphere. It creates that antagonistic and confrontational behaviour that an MPP—I believe it was shortly before last Christmas that I was watching a presentation on television by one of our MPPs who said, "We have to stop our confrontational way we do business." I believe the changes we discussed today in labour law will do a lot to affect that, gentlemen.

**Mr Bell:** Mr Chairman, thank you for hearing us. Most important, I hope you'll take the time, with your committee members, to go through the brief. If we sat down and read it to you today, you'd be looking at 25 to 30 minutes, obviously a bit too long, but I believe that if you go through the brief, you'll find some very interesting answers to some of the questions you've all been asking. Thank you, Mr Chairman.

**The Chair:** Thank you, but I think the committee has some questions of you.

**Mr Tilson:** I have two questions. The first question has to do with the section in the new bill that prohibits an employer from doing a number of things you have spoken of, coercion, threatening, discriminating, intimidating. The difficulty I have with the final subsection of that particular section of the bill is that the burden of proof is on the employer to prove that he didn't do anything that was contrary to this bill. I find that difficult because, of all the other laws we have from our basic common-law system, where allegations are made, the person who is making the allegation must prove that allegation. Would you comment on that?

**Mr Bell:** Yes. To be very succinct, if you're involved in labour relations, you'll find out the burden of proof and presenting a case where somebody has not been paid properly or anything else is on the trade union. The onus rests with the trade union. I don't think there's any problem in saying the onus rests with the employer to prove that he hasn't done something he's been accused of. He knows what the allegations are, and if you look at the court system, the same thing happens. Though technically the onus is on the crown to prove the case, the reality is that if you're not going to be found guilty, you have to prove in fact that you didn't do what you're being charged for.

**Mr Tilson:** So much for our common-law principles.

The second question I'd like to ask you is that I believe business and unions have one thing in common: they want us to have a successful economy. We look at the unemployment, we look at the bankruptcies, we look at businesses that are leaving to go to the United States, and they may be caused by a whole slew of things. They may be caused as you've indicated: GST, free trade, the usual rhetoric we hear over here.

Whatever it is, and I'm sure it may be a number of reasons, the fact of the matter is that we're having people coming to these hearings, all kinds of different people from inside and outside the province, investors, who are saying that this bill is going to create a bad climate, that people will not want to invest in Ontario. It may be a number of other reasons, these other reasons these people are talking about, but one of the reasons they all agree on is this bill,

that it's going to make the commodity of labour very difficult to compete with respect to other jurisdictions.

Whether you agree with that or whether you don't agree with it—and I suspect, having heard your presentation, you will disagree with that—having heard that, how do we stop that? How do unions and management stop that perception, which is that once it's entrenched it will be here for years, it'll be here for decades?

**Mr Bell:** I think, sir, you stop it by the politicians stopping it. I've watched the debate over the last two weeks. I've watched the Ontario Legislature, room 150 or 151, whatever it was, and all I've heard from one side has been: "This is terrible. It's going to destroy the economy. It's going to destroy the world." But the reality is, you as politicians have to take the lead, and unless you can come out and prove extensively that it's going to do something, then you shouldn't be saying it.

2100

I've listened to small business and I've met with small business. They've told me: "Well, that's what we were told by the chamber of commerce. That's what we were told by the Conservative MPP." The reality is that you have to talk about things in a positive manner, and it starts at Queen's Park.

I can tell you, from anybody watching what goes on in Queen's Park lately, that they don't see any cooperation. If the politicians can't create cooperation, there's no way you're going to see business and management create cooperation.

But there has been cooperation. I sat on the task force that Steve talked about earlier, and I can tell you that when we sat down with individual members, we produced what I think is one of the finest reports that's been done on the compensation board, and I hope you take the time to read it. It shows that working together we can do things.

**Mr Tilson:** Would you then agree that perhaps there should be an impact study done that would show that these allegations of tremendous job losses and the billions of dollars in investment that is being suggested will be lost will not take place? Would you agree that perhaps the onus is on the government to show investors from within and without the province of Ontario that this bill will not create the problems that are being suggested, and in fact will do quite the contrary, that it will create jobs? Do you not feel there's an onus on the government to do some sort of impact studies—not some sort, a very specific impact study—that will show that these fears are not well founded?

**Mr Bell:** The onus is on the people making the statements. I know when we've asked for health and safety changes, they've happened because we've proved our case, and I think the onus is on those people who are doing the scaremongering.

**The Chair:** And it's time to go to Mr Wood.

**Mr Wood:** Just to follow up on a question that Mr Tilson had, there have been no major changes, or no changes whatsoever, since 1975 as far as the OLRA was concerned. He's mentioned the impact study and the amount of job loss. Well, we've got to go back to 1988 to when the free trade agreement was pushed down every-

body's throat, I guess, and a lot of part-time workers were put into place. More and more people had to go on part-time work because there was no full-time as a result of the major changes that the Conservative Party pushed for, and I guess their cousins in Ontario as well. We've seen all the job losses on that.

I'm just wondering if you feel that this Bill 40 goes far enough or if there are any specific changes you think we should strengthen up on, or is it something you can live with?

**Mr Smith:** I'd like to field that, if I may. Basically what anybody will learn through the collective bargaining process, once they've sat down and been through it, is that you always go in with everything that you want and you have high hopes of getting it. But that's just not the reality of it. We're human beings and we all know there has got to be give and take in it for a system to survive. That's what democracy is all about.

So of course we're not going to get everything that we want. Of course business is not going to get everything that it wants. Of course the opposition is not going to have everything changed that it wants to have changed. It's a process of give and take. We think that what we have here, we can sell and we can live with. For right now, this is what we can take, we can use, we can swallow and we can make work.

The other point I'd like to bring up is that we've heard, with the introduction of every major bill in this province, whenever a new, major piece of legislation came in, the same type of tactics. For example, when Bill 70 was proclaimed in 1978, we heard so much about the fact that you can't give these powers to workers. "They're going to run amok in the workplace. They're going to take the right to refuse and they're going to turn it and take every bad feeling they ever had about their employer and use that to gang up on them." If you take a look at the statistics, that hasn't happened.

We hear the same thing about certification training. We know that when certification training comes through and people are trained, they will be responsible, and the responsibility will lie both with the workers and the management people in their workplace. We can work together, we've proved it, and unions are the best vehicle for proving that collectively we can get together and make something work.

In closing, if you empower workers, if you give them a chance to have a say and a process in the decision-making in their workplace, you will have a successful business where both the business owner will make a profit and your workers will take pride in saying, "We helped in that process."

**Mr Wood:** Just briefly, I take it from the presentation and the arguments you brought forward that there is no justification whatsoever from the chamber of commerce or any opposition MPPs of the scare tactics that are used, and that workers are going to be treated more fairly with Bill 40 than they were under the previous legislation.

**Mr Smith:** Yes.

**Mr Offer:** Thank you for your presentation. I have some very short questions. The first deals with a response



made to Mr Tilson's question on the issue of the impact statement. I believe the response was that the onus is on the people making the statements to conduct such an analysis. How do you respond to those same individuals who have said, "That's exactly what we've done," and now they want the government to respond to that type of concern?

**Mr Bell:** I think if you look at it carefully, from what I've seen of those studies, they aren't well done. They are done in such a manner that they get the results that are wanted. It's an attempt to use the process to slow up the legislation. Right now, I want to tell you, we think the process has been too long on this. I've never seen a bill with so much discussion in my life. Ms McLeod can remember me, Steve Mantis and other people sitting across from her when we dealt with compensation and health and safety. I'll tell you, we didn't have three or four kicks at the cat. This has been one of the longest processes that I've seen.

**Mr Jackson:** They're learning on the job.

**Mr Bell:** The result has been that everybody has allowed the rhetoric to get too high. The reality is this bill should've been through last year; it shouldn't be dealt with now.

**Mr Offer:** I have a couple more questions. One part of the legislation that has been brought forward as a concern is that during a certification, if there is an allegation of an unfair practice, intimidation or coercion by the employer, basically once that's proven, the organizing drive is successful and they become certified. From your experience, is that a penalty that would be effective in reducing coercion? The government certainly has indicated that it is.

**Mr Jameus:** I'd like to answer that question for you. What we find the situation to be is that we don't really find out about the coercion till it's all over, till the individual is gone. So the way to stop the coercion is to have the terminal date the same as the application date.

**Mr Offer:** I'd like to carry on with that because it's a very important aspect. Basically the bill states that if during an organizing drive the true wishes of the employees are not likely to be ascertained, the board can certify. All I would like to get from you—it has nothing to do with petitions or anything of this nature—has to do with coercion and potential intimidation taking place during an organizing drive. I'd like to hear from you, as people who have been involved in these areas, whether this is, in your opinion, sufficient to curtail that type of activity.

**Mr Bell:** As far as we're concerned, the bill doesn't go far enough. I think the stress that is put on workers by the decisions made by some management—I don't want to say all management, I'm saying some management—shows that the people who were involved in making that coercion have in fact done it purposely. I really think that what should happen is that there should be charges laid against the employer and against any legal counsel who's involved in it.

I have a real problem when I hear stories, Mr Offer, after a place has been organized and it comes out that the counsel who was hired for the petitioners was in fact not hired by the petitioners but was hired by the company, and we're told: "Go and talk to the petitioners. They'll take care of your problem." You may look at me kind of funny or want to turn your head away, but the reality is that it does happen. I think lawyers are supposed to be upholding the law and I have a real problem when they're involved in that type of action.

**The Chair:** I want to thank you people, Tom Jameus, Rob Smith and Francis Bell, speaking on behalf of the United Steelworkers of America. You've made, as have the other participants today, an important contribution to the process. We're grateful to you for taking the time to be here.

We tell you and the others who have expressed interest—and that's evidenced by the fact that people have been sitting as observers throughout the day in significant numbers—that the committee has enjoyed its reception here in Thunder Bay. Those who have travelled to Thunder Bay we wish a safe trip home. I want to thank the members of the committee for their cooperation today, and of course the staff, who set up and accommodated us in Thunder Bay, for its hospitality.

Mr Ferguson wanted to say something.

**Mr Ferguson:** Two things, Mr Chair: First of all, I think it would be proper and fitting that we recognize the federal member, Iain Angus, who has been with us for the entire day and has listened intently to every presenter who has appeared before the committee. I think he's doing an excellent job as usual on behalf of his constituents.

Second, I think it would be important that we compare other economies to our own economy and the rules that apply there to the rules that apply here. I've been told today that the country of Mexico, last week's winner in the lotto trade draw, has a law that prohibits the use of replacement workers. I was wondering if we could—

**The Chair:** You've just made the legislative researcher's day. She needed the workload, but I'm sure they'll do it with vigour.

Did anybody have anything to add?

**Ms Murdock:** I do.

**The Chair:** Go ahead, Ms Murdock.

**Ms Murdock:** I'll just be brief. I would add that today, one of the groups, the council of CUPE, suggested that we get copies of the Labour Canada part-time work in Canada commission.

**The Chair:** It's under way. Legislative research started doing that hours ago.

**Ms Murdock:** Last, but not least, what are the arrangements for tomorrow morning?

**The Chair:** We can discuss that after the committee adjourns.

Thank you, people. Thank you very much for being here this evening. Take care.

The committee adjourned at 2113.

**Substitutions / Membres remplaçants:**

- \*Eddy, Ron (Brant-Haldimand L) for Mr Conway
- \*Ferguson, Will, (Kitchener ND) for Mr Dadamo
- \*Hayes, Pat (Essex-Kent ND) for Mr Klopp
- \*Jackson, Cameron (Burlington South/-Sud PC) for Mr Turnbull
- \*McLeod, Lyn, (Fort William L) for Mr McGuinty
- \*Tilson, David (Dufferin-Peel PC) for Mr Jordan
- \*Ward, Brad (Brantford ND) for Mr Waters

**Also taking part / Autres participants et participantes:**

Wark-Martyn, Shelley, (Port Arthur ND)

\*In attendance / présents

**Clerk pro tem / Greffier par intérim:** Decker, Todd

**Staff / Personnel:**

Anderson, Anne, research officer, Legislative Research Service









## CONTENTS

Monday 17 August 1992

<b>Labour Relations and Employment Statute Law Amendment Act, 1992, Bill 40</b> . . . . .	R-527
<b>Thunder Bay and District Labour Council</b> . . . . .	R-527
Don Hutsul, president	
Rob Caron, union organizer	
Glen Chochia, chair, political action committee	
<b>Thunder Bay Chamber of Commerce</b> . . . . .	R-531
Jack Mallon, first vice-president	
John Erickson, board member	
<b>Canadian Union of Public Employees, Lakehead and District Council</b> . . . . .	R-535
Barry Chezick, president	
Howard Matthews, CUPE national representative	
Jules Tupker, president, CUPE local 87	
<b>Canadian Pacific Forest Products Ltd</b> . . . . .	R-540
John S. Taylor, employee relations analyst	
<b>Canadian Paperworkers Union</b> . . . . .	R-543
André Foucault, national representative	
<b>Thunder Bay and District Hospitality Association</b> . . . . .	R-548
Don Johnson, member	
<b>Hospitality, Commercial and Service Employees Union, Local 73</b> . . . . .	R-550
Don Campbell, president	
Tom Rees, international organizer for Canada, Hotel Employees and Restaurant Employees Union	
Ralph Ortleib, member, United Food and Commercial Workers	
<b>Unity, Lakehead University</b> . . . . .	R-556
Shirley Richter, member, Office and Professional Employees International Union (OPEIU), Local 181	
Norma Gibson, member, OPEIU, Local 181	
Cheryl Balacko, member, OPEIU, Local 181	
John Griffith, president, Lakehead University faculty association	
Mary Garbutt, member, OPEIU, Local 181	
Birbal Singh, vice-president, Lakehead University faculty association	
<b>Dryden and District Labour Council</b> . . . . .	R-560
Alma Wall, president	
Mary Aitken, vice-president	
<b>International Woodworkers of America—Canada, Local 2693</b> . . . . .	R-560
Wilf McIntyre, president	
<b>Thunder Bay and District Injured Workers Support Group</b> . . . . .	R-568
Steve Mantis, treasurer	
<b>Northwestern Ontario Steelworkers Area Council</b> . . . . .	R-572
Francis Bell, president	
Rob Smith, financial secretary	
Tom Jameus, president, local 4464	

### STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \*Chair / Président: Kormos, Peter (Welland-Thorold ND)
- \*Vice-Chair / Vice-Président: Huget, Bob (Sarnia ND)
- Conway, Sean G. (Renfrew North/-Nord L)
- Dadamo, George (Windsor-Sandwich ND)
- Jordan, Leo (Lanark-Renfrew PC)
- Klopp, Paul (Huron ND)
- McGuinty, Dalton (Ottawa South/-Sud L)
- \*Murdock, Sharon (Sudbury ND)
- \*Offer, Steven (Mississauga North/-Nord L)
- Turnbull, David (York Mills PC)
- Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgianne ND)
- \*Wood, Len (Cochrane North/-Nord ND)

*Continued overleaf*



## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Tuesday 18 August 1992

### Standing committee on resources development

Labour Relations and  
Employment Statute Law  
Amendment Act, 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Mardi 18 août 1992

### Comité permanent du développement des ressources

Loi de 1992 modifiant des lois  
en ce qui a trait aux relations  
de travail et à l'emploi



Chair: Peter Kormos  
Clerk pro tem: Todd Decker

Président : Peter Kormos  
Greffier par intérim : Todd Decker





## **Table of Contents**

Table of Contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

## **Index inquiries**

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## **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

## **Renseignements sur l'index**

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday 18 August 1992

The committee met at 1330 in the Hilton International, Windsor.

### LABOUR RELATIONS AND EMPLOYMENT STATUTE LAW AMENDMENT ACT, 1992 LOI DE 1992 MODIFIANT DES LOIS EN CE QUI A TRAIT AUX RELATIONS DE TRAVAIL ET À L'EMPLOI

Consideration of Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment / Loi modifiant certaines lois en ce qui a trait à la négociation collective et à l'emploi.

**The Chair (Mr Peter Kormos):** We're ready to commence this afternoon. I want to tell people a couple of things first. There's coffee outside on the side table. That's for people who are visiting us this afternoon. Make yourselves comfortable. Second, there are French-language translation devices available for people for simultaneous translation, these little units and earphones. Those are available to people who want to make use of them.

### WINDSOR AND DISTRICT CHAMBER OF COMMERCE

**The Chair:** The first participant this afternoon is the Windsor and District Chamber of Commerce. Gentlemen, please tell us your names; tell us what your titles are. You've got half an hour. Please try to save the last half of that half-hour—the last 15 minutes at least—for exchanges and conversation. Go ahead.

**Mr Larry Bannon:** My name is Larry Bannon. I'm chairman of the board of the Windsor and District Chamber of Commerce. I was about to say something else. I would like to recognize and introduce today here with us members of our labour relations committee Tony Pappa, Greg Merner and Vancho Cirovski. At this time I would like to ask George King, chairman of our committee, to make our presentation.

**Mr George King:** Thank you for allowing the Windsor and District Chamber of Commerce the opportunity to address you today on the topic of legislative reform to the Ontario Labour Relations Act.

Unfortunately, Mr Chairman, as your party has repeatedly announced its unbending commitment to amending the act, we have concerns. We understand the politics that underlie your decision. We are, however, most distressed that the government's commitment to organized labour is more important to you than the survival and prosperity of Ontario business, but we do understand the politics.

Given that the NDP has publicly stated that the legislation is going to be passed, we are going to direct our comments today to the Liberal and Conservative members of the committee. We are doing this not to be rude or impolite to the current government but because since last

year we've been asking the government to answer one fundamental question, which it's refused to answer publicly, and that question is: Can you name one jurisdiction in North America that has a more comprehensive package of labour and employment laws than Ontario?

Since this question has gone unanswered, our approach today is to provide all of you, but particularly the Liberal and Conservative members of the caucus here today, with a series of questions which we hope will be asked in the Legislature. We submit they must be asked in the Legislature. Hopefully these questions will compel this government to stop politicizing this process. It's time to stop accusing business of being threatening when all we're doing is telling the government what is going to happen—in other words, being truthful—if this disastrous legislation is passed, and get on with the joint business of maintaining Ontario's competitiveness.

Second, and perhaps more important, our aim is to hold you, the Liberal and Conservative members of the respective caucuses, responsible for repealing any and all of this retrogressive legislation immediately upon either of your parties' return to office.

We'll start our presentation by answering our own question. The answer to that question is there is no jurisdiction in North America that has as comprehensive a set of labour and employment laws as Ontario. Query, then: Why the need for change?

Are we, as Ontarians, so smug and confident that our highly skilled, highly educated and highly productive workforce can outcompete everyone else in the world, regardless of cost, that we can afford to pass this legislation that can only reduce our competitiveness? If this is our collective attitude, then we are headed for certain economic disaster. We should be focusing all of our collective energies on reviving our stagnant economy, not passing legislation that will curtail investment and stifle recovery.

On to our questions:

**Question 1:** If the NDP government and Premier Bob Rae are so concerned about purported job losses because of free trade with the US and Mexico, have they considered shelving the Bill 40 legislation until the full economic impact of a North American free trade zone can be assessed?

**Question 2:** On a similar note, can the government explain how removing trade barriers with either the US or Mexico will negatively impact on our economy and cost Ontario jobs, but passing labour reform that tilts the balance of power at the bargaining table decidedly in favour of unions won't cost us jobs?

**Question 3:** Is the government considering legislation to provide retraining and economic relief to the approximately 250,000 Ontarians the firm of Ernst and Young claims will be lost due to the passage of this legislation?



Question 4: If the government believes choking the economic lifeline of a company by legislating against replacement workers is going to promote economic harmony and level the so-called negotiating playing field, is this government also going to table legislation that would make it illegal for a striking worker to be gainfully employed elsewhere during a strike so as to make the economic consequences of a strike equally fatal for all concerned?

Question 5: Outside of additional Ministry of Labour staff and a few new positions for union organizers, how many jobs will this legislation create?

Question 6: Has this government done a study to assess how devastating the legislation will be to Ontario's ailing restaurant and hospitality sector? Does this government realize that many of the people the government claims need help, ie, women and visible minorities, work in this industry, and it is their jobs that will be threatened? To put it in the vernacular, under Bill 40 restaurants will be unable to plan for a strike like manufacturers because you cannot build an inventory of restaurant meals.

Question 7: Has this government assessed how the legislation will impact on those firms involved in the production of automobile parts for automotive assemblers in Canada, the US and Mexico? More specifically, does this government realize that these firms supply on a just-in-time basis and that any disruption in that supply halts production? Accordingly, if the supply is at risk, the customer is at risk and ultimately the employees' jobs are at risk.

Question 8: Has this government any statistical data on the number of present Ontario businesses, particularly in the auto parts sector, that are presently establishing operations in the United States as a hedge against this legislation? Has this government any idea that the passage of Bill 40 will make it virtually impossible for any Ontario parts manufacturer to maintain a single-source operation exclusively in Ontario?

On that point, I would like to add that I am a member of the bar. I practise here in the city of Windsor. My practice is restricted exclusively to the representation of employers in labour relations and labour law matters. I can tell you that if you were to rifle through my office and find the number of letters I've written to clients advising them on this very issue, it would shake you to the core. It would shake you to the fundamental core to realize exactly how many of our existing businesses are looking at leaving Ontario because of the potential passage of this legislation. That's not a threat; it's simply a fact and it can't be ignored.

Question 9: Has this government considered the negative impact the replacement worker amendments will have on highly capitalized, highly technical firms that are thinking of investing in Ontario but won't when faced with the possibility that their facility will be shut down in the event of a strike and their expensive, dedicated or immovable equipment rendered legally inoperative? On this point I'd like to defer momentarily to Mr Bannon, our president, who works for Lamb Technicon. He can explain how this particular piece of legislation will dramatically impact on his firm's business.

**Mr Bannon:** Lamb Technicon operates the industrial automation division of Litton Industries. Our concern relates to both the placement of jobs in Canada and the continuance of those jobs that we have on the floor. The nature of our business is that we build major systems for the automotive sector, both metal-working and structural body welding. Those systems span a time frame of two to three years, in some cases, from the time the order is received until the systems are installed in our customer's plant and running: very large operations, you might say the size of a single plant, in some cases. Our concern would be that in the final year of a given contract, once it's on the floor, should a labour disruption take place, we would virtually be compelled to settle any grievances, and we see that as a potential threat to the continuance of any work beyond that point.

I would like to emphasize that the overriding concern is that with this kind of climate we would have to be very careful to recognize that our potential to receive the jobs initially—on a personal basis, the team that I work with here in Windsor, we're the largest machine tool operation in Canada. We're the only presence for Litton in Canada in that division. We work diligently with both our employees and our customers and our people to try to continue and to support this work. It's been very successful. As I sit here today, we're in the throes of an order in the proportion of \$50 million that's going to be shipped to Russia, built right here in Windsor. I want to do all possible to try to ensure and improve and foster the continuance of that kind of activity. I thank you.

1340

**Mr King:** Question 10: Does this government believe that these labour relations act amendments are necessary and justified because of organized labour's failures at a few high-profile locations such as Eaton's? Our labour relations history is filled with wins and losses on both sides. Surely we don't need to hand out a death sentence to all Ontario businesses to rectify what this government perceives is improper conduct on the part of a few employers.

Question 11: Is it the position of this government that Ontarians are not intelligent enough to make a reasoned choice in a secret ballot vote for certification? If not, why is this government proposing to eliminate the already insignificant steps of a \$1 membership payment, the right to sign a petition and change one's mind about a union, or the secret ballot vote which exists in most other North American jurisdictions? Why is this government and the labour movement so afraid of secret ballot votes?

Question 12: Has this government studied the proposed labour relations act amendments presently pending in Manitoba? If not, we urge you to do so before passing any amendments to our labour relations act.

Question 13: Has this government done a study to consider the negative impact that the strike replacement legislation has had on both Quebec labour relations, through increased strike activity since the passage of the law in the late 1970s, and the economy—significantly slower growth than Ontario's during that same corresponding period?

Question 14: If eliminating picket-line violence is a major aim of the replacement-worker amendments, has the

government done a study to determine that picket-line problems occur with increasing regularity even where replacement workers are not being used? Furthermore, why grind our economy to a halt when law enforcement issues are what are at stake?

**Question 15,** our last question: Finally, when is this government going to realize that business can no longer continue to be the principal agent of social change in our society? This legislation is unnecessary. It is unwanted by both business and workers in Ontario. The threat of the passing of this legislation has been hanging over our collective heads like the sword of Damocles for almost two years now. The promise of this legislation has already cost the province jobs and investment. Please ensure that this does not occur. Our future depends on it. Enough is enough.

Thank you. We'll be pleased to answer any questions.

**The Chair:** Thank you. Mr Dadamo. Five minutes per caucus, please.

**Mr George Dadamo (Windsor-Sandwich):** I have been waiting for a face-to-face like this for a long time. We seem to have found the right forum to do this and I want to throw a couple of things at you.

You talk about letters that come to your office that you say would shake us to the core.

**Mr King:** I'm talking about—

**Mr Dadamo:** Pardon?

**Mr King:** I'm talking about letters I've written to clients.

**Mr Dadamo:** Okay. But "shaken to the core"—I'd like for you to talk to some people who have spoken to me and people in my office over plant closures in the last two and three years in this city, and especially Local 195, which seems to be the one that is most affected.

I'd like to talk about people who are on picket lines, and you make mention that there is maybe some chaos on the picket lines. What do you expect when scabs come in to perform these jobs? What do you expect from the workers who are out there? How do you want them to react?

**Mr King:** There are very few instances where replacement workers have been used, certainly in this area, in the last few years. I think you have to appreciate that it's not necessarily the practicalities of what's going to happen on a picket line; it's the message that we send to the rest of the world, to the people who invest in Ontario, that we're not open for business.

Picket-line problems occur regardless of whether or not there are replacement workers involved. They occur regardless of whether or not supervision is doing work during a strike. They even occur when nothing more is happening than supervision is going in for security purposes or to do paperwork or to do the things that they normally do and there is not one single product leaving the workplace. Those problems exist, Mr Dadamo, in all strikes. That is not the exclusive domain of situations where replacement workers are involved. Really you're trying to stamp that out when it's a very small percentage of the strikes where replacement workers are even used.

Chrysler, Ford and GM, for example, could never operate their plants if they had a strike. It would be physically impossible to hire people, to bring 2,000 people into a facility to try to run a plant, forgetting about the logistical nightmare of having pickets outside and transportation. You just couldn't get the people to do that.

**Mr Dadamo:** And they've made some strong commitments in this city, for example, all three of the automotive giants, and they don't seem to have a problem with this. The chamber of commerce seems to have a problem with this. I'm saying to you simply if people are on a picket line and you bring scab labourers in to do that kind of work or supervision or whatever, how are you ever going to get to the crux of the problem and try to fix it up?

**Mr King:** We get to the crux of the problem at the table.

**Mr Dadamo:** We see that here. We saw what happened with the strikers at the Windsor salt mines a couple of years ago. You left them out in the cold. You left them out in January, February, March and April without even talking to these people. Now imagine if you had people coming in to do their jobs. You'd never have settled that strike. That went on for ever.

**Mr King:** Let me clarify a couple of things here. First, there was no production going on at that facility. There was not one single grain of salt mined while that strike went on, and that's the kind of example I'm talking about, Mr Dadamo. If you have a perception that there were people in there mining, you are wrong.

That strike went on because the negotiator for the union and the negotiator for the company, who happened to be me, were in complete agreement that, given the issues that divided us, there was no point for a meeting, and that was a mutual agreement that there was no point. We had mutually exclusive positions. They had nothing to do with working during the strike. And if it wasn't for the timely intervention of the Ministry of Labour, that strike could still be going on. The third-party intervention helped and we got a deal and things are much better there. We're about to head into negotiations for a new contract and hopefully we'll get through it without any problems. But that strike was not prolonged or in any way caused or was the fact that anyone was working in that plant a factor in that strike. It simply was not occurring.

**Mr Will Ferguson (Kitchener):** Mr Chair, two points I just want to make to the chamber, and I certainly do appreciate their presentation, as do all members of the committee.

They would have a hard time convincing Statistics Canada that investment is drying up in the province of Ontario. According to the February 1992 data that was released from Stats Canada—and you can question them about this—out of the \$45 billion worth of investment in this country in the past year, \$20 billion came to Ontario. Not only that, they're projecting a 3% increase for 1992 in investment in Ontario after going out and talking to the business community. So very clearly, the economy of the province of Ontario is not going to come to a grinding halt because you happen to change a couple of labour laws.



We are being told that even Mexico has a law prohibiting the use of replacement workers. My goodness, I think what we're suggesting here is that we bring the act into the 1990s, and after 17 years, given the horrendous changes that have taken place in the workplace, that is about time. Don't you think it's time we bring the act into the 1990s?

**Mr King:** I think it's time, sir, that we remain competitive, and I can tell you that there are a number of automotive plants, parts-manufacturer plants in this community, who have already established satellite operations in the United States because they cannot risk having a single plant operation in Ontario that could be shut down in the event of a strike. That's what's happening.

**Mr Bannon:** Mr Chairman, I just wanted to indicate that the position of our chamber, and I believe I speak in conjunction with the Ontario chamber, is not so much the economic issue; it's the job issue. When we see, as the Premier reported yesterday in one segment, a 20,000 job loss in a particular segment out of 70, that's what we're trying to address. We feel that this legislation does not improve or even approach holding our position in terms of additional jobs.

**Mr Steven Offer (Mississauga North):** Thank you for your presentation. Just before Mr Phillips asks a question, I would like to ask an opening question. I note on page 2 you talk about it being the time to stop accusing business of being threatening, and you go on speaking about what might happen as a result of these changes.

I think it might be interesting for you to know that as we are now in the third week of these hearings we have heard concerns about the legislation and its impact, but it's not just come from what might be referred to as the business community; we've heard concerns from the Ontario Association of Children's Aid Societies, from school boards, from municipalities, from municipal hydro services, all with various concerns as to what this legislation means and the way in which they're able to conduct and meet their responsibilities. So those concerns are not just from the business community.

1350

As you brought forward the issue of the secret ballot, you will know that there will be, and has been, representation that there should be a secret ballot, that the question is not the right of an individual to associate or strike or to organize. In fact, that's a given; that's not what this legislation is about. This legislation is, in this area, about workers having the freedom to make a choice in a secret, fully informed fashion, free from coercion and intimidation. There are those who come forward and say that can be accomplished through a secret ballot. Could you share with this committee your thoughts on that proposal?

**Mr King:** I certainly can, Mr Offer. As a labour relations practitioner who's involved in many, many certifications throughout the province, I can tell you that the voting process works. Not to criticize legal strategies, but I was recently involved in a case involving the Magna plant here in Windsor where the CAW attempted to organize that plant. When the dust settled at the beginning of the hearing, the union had exactly one more card than it needed for

automatic certification. The petition came into question. Ken Patrician, the board chair, a former Teamsters lawyer, heard the case, found the petition to be a voluntary expression of those employees' wishes and ordered a vote, which the people who did not want a union won convincingly. That is how the process works.

There were some unfounded allegations of wrongdoing on the part of the company. Those were found, by someone who practices as a union labour lawyer, to be unfounded. A vote was held. The true wishes of the employees were determined. If it had gone otherwise, then so be it, and that company would be in collective bargaining with the CAW today.

But the process does work. When you see a case where the board is saying to the union, "Why don't you just agree to a vote and get on with it. Your case is strong now. The iron's in the fire," but the union says no, and 11 days of hearings and 14 months later a vote finally occurs, it's no wonder maybe that the union loses. Then they get upset about it. They claim there's foul play involved when probably if the vote had been held on the day of the certification they would have had the support.

But people's interests wane. People want the right to have a vote. It's certainly not too much to ask. It's secret ballot, and the act certainly provides more than enough remedies for abuses of the act by employers. There are enough sections in there; there are enough teeth in them. There are enough decisions of the board, enough precedents for the labour relations board where employers such as Radio Shack and people like that who haven't played by the rules have been hammered when they've attempted to skirt the rules.

**Mr Gerry Phillips (Scarborough-Agincourt):** I appreciate your brief as well. The challenge we face is that you're predicting what this will represent for the future and the other side predicts what it'll represent for the future. We're both speculating, both sides. A year ago we told the NDP the budget was wrong. They said, "No, no, the opposition's wrong." I think it's proven the budget was wrong. I think we will find that many of your concern will come true.

I do believe this will represent significant job loss opportunities for Ontario. We already are seeing record plant closures. Plant closures aren't dropping; they are increasing, Mr Ferguson, increasing. The unemployment rate is running well above 11%; in fact, it's probably 13% right now in the province.

My question to the chamber is this. I think later on we will hear from other groups saying that Ford is putting \$2 billion into the country, that Chrysler just put its big, new car line in the country. If the industrialists are so worried about the future, why would they be investing in the Ontario economy?

**Mr King:** What those industrialists, what those Big Three companies are going to do and are doing, I submit, is saying to John Doe who owns a small plant here in Windsor, employs 50 people who are represented by the CAW or the Teamsters or the Steelworkers or the Food and Commercial Workers or whoever it is: "You're single-source on this bracket. We don't want that production to

stop. We've got a multimillion-dollar investment in a mini-plant in Windsor" or at plants in Oshawa or the LH plant in Bramalea, "and we're not going let you, John Doe, halt production of this. If you aren't prepared to find an alternative source so that if you have a strike in Windsor" or Bramalea or Kitchener or St Catharines, "we're going to yank that tool from you." This is the first weapon they have.

Secondly, "If you want to keep the work, you'd better set up a second plant outside Ontario so that when you do have a strike you can continue to build the bank." Those jobs are being lost to Ontario. That's potential growth in Ontario.

Unfortunately, what's happening is that some of these people are getting over to the States; they're looking at the competitive advantages that exist over there. They didn't have the inertia before, maybe, to get up and leave, they didn't want to leave Ontario or Windsor or Essex county or wherever it is, but now they're over there because they don't have a choice and they're finding out they can make more money over there and they're leaving. It's a vicious cycle that we're caught up in.

Just one last point. With respect, I don't think both sides are really trying to predict the future, Mr Phillips. I think you have to give the business community credit. We are the people who are the investors. The chamber represents the people who create the jobs and who are investing. Our membership is telling us, and you heard testimonials from a number of companies the first time when Mr Mackenzie came around and you're going to hear them from specific companies now, about how this is going to impact.

It'd be no different than if we were attempting to overhaul the Trade Unions Act and the chamber of commerce was trying to tell the trade unions how their internal union should be structured, how they should be organized. That's not to say we can't make suggestions, but I don't think we can tell the trade unions that we know their business.

I'm telling you, as a member of the chamber of commerce and as a lawyer who practices in this area, my clients—not all of them but many of them—are most distressed about this legislation. They're either thinking of leaving or they're looking at putting defence mechanisms in place so this legislation doesn't impact on them.

It's not a prediction. I think it's the truth. It's not a threat; it's simply a fact.

**Mr David Tilson (Dufferin-Peel):** It's interesting that you come forward and identify yourself as a labour lawyer because normally this group over here blames you and your fellow lawyers for causing the entire mess that labour law's in now and I notice that none of their questions were directed to you on that.

With respect to whether there were any impact studies done on anything, this government has made no impact studies. I can tell you the answer to all of your questions that you've asked with respect to whether the government has or intends to carry on any impact studies. The answer to that is no.

If you're not going to allow management to have replacement workers, your comment was, "Are you going to allow employees to be gainfully employed in other

places of employment while the strike is going on?" That question has been asked. It appears that there will be no amendment allowed with respect to that.

There is another question our party has put forward with respect to the whole certification process: If you're going to allow the certification process to be made easier—and there may be good grounds for that—why would you not make it just as easy to decertify? The answer to that is, "You don't need to; we already have process," notwithstanding the fact that the petition process has been removed and there's now no chance with respect to a second thought.

Those are general thoughts I have about many of the questions you've asked. I would like either of you to comment, though, on your thoughts with respect to the image that's being created in this particular area—as comments have been made with respect to bankruptcy, with respect to companies moving to the United States or simply going out of business, closing down—the image that the province of Ontario has from investment that may wish to come into this area for any type of operation. Can you tell us, from your perception, what that image is that has been created, perhaps directing it to the labour legislation?

**Mr Bannon:** You just used, I think, the more operative word: "perception." If I can use the two words "image" and "perception" to respond, it's not good. It's anything but what should be sent as a message. It is what we have indicated from day one. At an earlier meeting with Mr Dadamo and Mr Lessard in my office over a year ago, we said: "Please take into consideration that it's not just the written word. There is that perception out there that we are not open for business."

I would like to respond, if I can, to Mr Phillips somewhat. I submit, and our position is, that the basic case about the need for this has not been made. I've heard what our friends have said and I understand it, but I submit that it has not been made in terms of need. It is hurting the very people it's intended to help, that is, the smaller end of the spectrum: the ones, the 10s, the minorities and the small business people. It's going to force them into a position where they have another onerous responsibility to be addressed, and I think they're going to do it at a distinct disadvantage.

**The Chair:** Thank you to the Windsor and District Chamber of Commerce, Larry Bannon and George King, for speaking on behalf of that organization. It's an important role you play by coming here and we're all grateful.

**Mr Bannon:** Thank you. Mr Chairman, if I may, I was negligent: I did not introduce Roman Dzus of the Windsor and District Development Commission as being with us.

**The Chair:** Now you have. Thank you, sir.

1400

#### WINDSOR AND DISTRICT LABOUR COUNCIL

**The Chair:** The next participant is the Windsor and District Labour Council. Please come forward, seat yourselves and give us your names and titles, if any. I remind people that there's coffee outside; that's here so that you can make yourselves feel comfortable. There are French-



language translation devices for people who prefer to hear these submissions in a language other than the language that's being presented. Go ahead.

**Mr Gary Parent:** Thank you very much. My name is Gary Parent. I'm the president of the Windsor and District Labour Council. With me is Nick LaPosta. He's the financial secretary, also of the labour council.

I think I would be remiss if I didn't respond to a couple of remarks the chamber has made in its presentation. Mr King alluded to the question of replacement workers and the confrontations, and Mr Dadamo had raised some concerns as well.

I just want to say that it was a plant that he happened to be representing, called ADM, that took the initiative to advertise for scabs to be brought in during that strike. It tore this community apart. There were 60 workers at that particular plant. They were going to bring these scabs in by boat from the United States, and that's how they were going to get them into the plant. I think that's atrocious.

When they're talking about parts plants closing, I only wish that the chamber of commerce were as vocal and using the energy it is against these Labour Relations Act changes as it should be about the free trade agreement. When you've got a free trade agreement that is closing plants down right, left and centre, I think it's absolutely atrocious that they're coming here today and blaming the Labour Relations Act changes for those particular plant closures when it was the free trade deal and the recession, the made-in-Ottawa recession, that has taken place in this country.

He referred also to Magna and the petitions and the vote. I just want to tell this committee that it was because of his intervention and that employer's intervention that that process took over two years in the courts and before the board before we started talking about having the vote. There was a lot of intimidation of those workers at that particular plant by that employer for that length of time. Yes, we did lose that particular certification, but let me tell you, my friends, there are a lot of people in that plant who still today want a union and maybe somewhere down the road, after these proposals are passed into legislation, that plant will become a CAW plant.

I'll get into my brief. We would first like to take this opportunity to thank the committee on behalf of the 42,000 affiliate members of the Windsor and District Labour Council for the opportunity to make a submission on these very important Labour Relations Act changes.

Our labour council is comprised of affiliated unions throughout Windsor and Essex county who participate in every municipality in one way or another to make their respective communities better places to live and raise their families. These same groups of individuals have been doing so since the early 1900s, and there are even some records dating back long before that time about the labour council's history. As you can see, this council is not a newcomer in working for the protection of workers' rights and their struggles to obtain those rights.

We take great exception to the many business coalitions, including our own chamber of commerce, for launching upon the citizens of Ontario a very slick and

expensive American-style campaign of fearmongering and misinformation.

Where have these same business groups been since the implementation of the US-Canada free trade deal, during which time we saw thousands of jobs leave this community and province? Where have they been? Why haven't they spoken out with the same amount of energy and vigour as they used against this provincial government that has proposed a progressive change in the Labour Relations Act for workers in this province?

But why should we be surprised? It is the same group of employers who as a matter of historical record opposed the Factory Act of 1884 prohibiting the use of child labour, which also established minimum workplace rules; suffrage and the extension of women's right to vote; reduction in the workweek of 60, 54 and 48 hours to the present 40 hours; the removal from criminal law of the provision of engaging in a conspiracy if a worker joined a trade union; the implementation of the Workmen's Compensation Act of 1915, the health and safety acts, Bills 79 and 208, public education, the Canada pension plan and of course, of late, pay equity and Bill 40, to name a few.

On the other hand, these employers have supported the free trade deal, which, as we've stated, has seen thousands of jobs leave this community, wage controls, unemployment insurance cutbacks, pension clawbacks, and reduced social expenditures, which are all a major detriment to the working people in this province.

We believe, as a labour council, that the working people of Windsor-Essex deserve fairness and equity. They deserve the right to join a union if they so choose, and they also deserve after joining a union to then exercise their rights for free collective bargaining, and they should not have to tolerate the use of scab replacement workers.

The role of the Windsor and District Labour Council should be as it was intended: to promote both Canadian Labour Congress policies and the Ontario Federation of Labour policies at a local level. The reality is that it doesn't happen that way. We are constantly called upon to support various workers who are legally exercising their legal right to strike, only to find that their respective employers have seen fit to bring in scabs to do their work.

The committee should take the time to talk to the support staff of the Ontario Secondary School Teachers' Federation, employees of the Windsor Board of Education, who before they even went out on a legal strike had to endure the intimidation of the school board, which brought scabs into their workplace and expected them to be trained by the unionized staff, most of whom were women; or, if you'd like, talk to the workers at our tunnel commission, members of Local 195 CAW, who not only had to face the fact that their supervisors were doing their jobs but also witness US supervisors being brought in to do their work.

If you still haven't heard enough, talk to the workers at Paragon Tool, many with 20 years' seniority, who watched during a legal strike as machinery left the plant they worked in and who remained on strike for another seven months, only to see the plant end up closing. It is our belief that if this employer would not have been allowed to

remove that machinery, those employees might still be working today.

A most recent example of the use of scabs during a legal strike was depicted in a Windsor Star article dated August 14, 1992, which I've attached to the brief. This article reflects what happens when workers feel their livelihoods are threatened. As stated in the article, "The amiable picket line set up by striking humane society workers turned ugly Thursday with the arrival of two replacement workers."

These examples of workers' rights being violated have to come to an end, and we hope, through the proposed legislative changes, this will be accomplished. As you can tell by our opening remarks, we will be dealing with two aspects of the legislation: the use of scabs in a strike or lockout situation and the rights of individuals to join a union, thereby improving collective bargaining and reducing industrial conflict.

**Mr Nick LaPosta:** On the use of scabs: As we stated earlier, we feel this piece of legislation is most important, as in our opinion it equates to more industrial peace. It will finally provide workers and employers with an equal footing, which, as we have shown by example, has not always been the case.

We would also be remiss if we did not state that we feel these proposals do not go far enough. We feel the employer should not have the right to legally shift bargaining unit work to another geographic location or be allowed to contract out bargaining unit work. As well, we feel that non-bargaining unit employees who normally work at a struck plant who are able to perform the work at that plant should not be allowed to do so. We remain absolutely opposed to those omissions in the amendments and ask the committee to further review this portion of the legislation.

1410

**Organizing and certification:** There should not be, in a modern Ontario, a group of people called the working poor. People who work should not be dependent on governments and government agencies for survival. By making it easier for them to exercise their freedom to choose a union, we take these individuals off a vicious treadmill. No longer will they have to wait for the minimum wage to go up before they can get a raise. They will be able to set the level of their working conditions by mutual agreement with their employers.

If one listens to the critics of this section of the proposed changes, one would think that being a union member is bad for Ontario or, in this case, Windsor. Let's look at Windsor's labour movement.

When it comes to the United Way campaigns, for example, Windsor's labour force has been the leader in per capita giving for over 20 years.

As we stated earlier in our brief, labour contributes not only its money but also its time on various community boards, commissions and boards of governors at both our community college and university, in addition to many other activities—all working collectively to make this a better city, a better Essex county—yet these critics contend

that people should not be allowed to join a union if they so choose.

Organizers should have the right to request an expedited hearing when they file an unfair labour practice complaint under section 91 of the act. This would go a long way to deter anti-union employers from deliberately discharging pro-union employees as a way of thwarting a union's organizing drive. Even though the time frame for filing a hearing is currently set at 15 days, we would have much preferred a seven-day waiting period.

As far as the access to third-party property is concerned, we are concerned that organizers may still be barred from entering an employee's workplace. We still maintain that organizers should have the right to access specific parts of an employer's actual premises.

The elimination of the \$1 membership fee is a very significant change, one which we feel would eliminate one of the most common objections employers use to delay the certification application. As was stated earlier by the chamber—it used Magna as an example—and, as Gary repeated here just earlier, two years of legal wrangling before they got down to the vote. That's ludicrous.

As for the support required for certification, we cannot agree with the reversal of the discussion paper's 50% for automatic certification to the present 55%, but we can support the lowering of the percentage from 45% to 40% needed for a representative vote.

We also believe that organizers should have the right to lists of employees for organizing purposes upon making an application for certification, and feel that this list should also be given to the board.

Having reviewed the petition and revocation amendments, we ask the committee to look at eliminating the pre-application revocation petition. To do otherwise would mean the risk of turning the post-application petition problem into a new, pre-application revocation petition problem, which these amendments try to cure.

We would like to say that unions are not a social luxury. They can't be made available to people in times of economic prosperity and then taken away during recessions. Unions are a social necessity. They are an essential piece of our community fabric. In good times and in bad times they provide a service to all society.

In summary, we've touched on but a couple of these legislative changes which are, as you are aware, the most controversial. You have heard us put forward our concerns and the reasons we feel these changes are needed.

We see the current federal government using its social and economic policies to empower corporations, giving them more control over the workforce and the community, and then we see the Ontario government using its social and economic policies to build a society that will be built on trust and cooperation, which we applaud.

We trust that our concerns and our views will be taken into consideration and will be looked at as not tilting the scales in the unions' favour but adding more equality to the process.

We conclude by saying to those who question these proposed legislative changes that if you took organized labour out of Ontario, there would be no Ontario, but add



more union members to Ontario's workforce and what a better Ontario it would be. Thank you for your attention and your time.

**Mr Offer:** Thank you for your presentation. I'd like to talk about the issue of organizing and certification. Just before I ask the question, I don't believe that this particular area is about whether unions are good or bad. This issue within the legislation is about whether individuals, the men and women who are working, should have the right to freely make the choice. It is in very large measure the same type of question which I asked the previous deputation, because I note on page 13 of your brief that you would like the certification vote to be reduced from 55% to 50%, and I understand that.

What I'm asking you is: What is your position on having a free, secret ballot where the men and women in the workplace are informed as to the drive, and what it means, and that the trigger to get that vote is not 40% but rather 20%, that if 20% of the people in the workplace indicate by membership that they wish a vote, a vote then is held? If that takes place, let the men and women in the workplace make their choice, free, fully informed and free from any coercion or intimidation. Would you then be in favour of a secret ballot vote and would you support an amendment to make that come about?

**Mr Parent:** We are not in favour of a secret ballot vote, nor will we ever be in favour of a secret ballot vote.

I just want to explain a myth out there. When places are being organized, it is the people themselves who come to the union and ask to be organized, so their mind overall is basically set up on what they want out of a union.

Yes, there is some information that is always passed on to them at that particular time, but to have a vote and drag out the process is absolutely a waste of time, in our opinion. We should get on to the actual certification of those groups of workers who want to belong to a union and not bring it through the courts or to the labour board and have undue hearings and everything else and then at the end result have a vote.

I will accept, though, if you want to reduce it to 20%, that's fine.

**Mr Phillips:** Maybe I'll just pursue that. Maybe you can help me a little bit on why you are against a secret vote. Is that you think it takes too much time? If the time frame were dictated, so it took place quickly, as could be part of the bill, then you would get away from your concern about delays. Would that then tip you in favour of it? If that wouldn't, what is your objection to the secret ballot?

**Mr Parent:** Again, Mr Phillips, as I alluded to earlier, I think when the people come to a union to be organized and to be certified into a bargaining unit, their mind has already been made up. There's no need at that point to have a secret vote.

**Mr Phillips:** But if it was 20%, you'd have to have the rest have a majority, wouldn't you?

**Mr Parent:** I would hope so, at the 20% level. But we're just arbitrarily against a secret vote.

**Mr Phillips:** For what reason, though? Could you help me out a little bit?

**Mr Parent:** I think I've explained it. I have all day if you have all day. I think that what we're saying is very straightforward. The people don't necessarily have to have a secret vote. When they're coming and 50% or 55% of those workers in that place want to belong to a union, that should be clear enough, and there shouldn't have to be a vote to follow.

**Mr Phillips:** It's not clear to me, but I hear what you're saying.

**Mr Parent:** I guess I can say that it's not clear why you're insisting and why Mr Offer is insisting at every hearing that we have a vote when the workers in that particular workplace—and I'm saying about the 50% or the 55%—have signed cards, are wanting to automatically get certified, belong to a trade union, and yet there's opposition constantly coming from employer groups, constantly coming from you in the opposition about a secret vote, and there's no need for it.

1420

**Mr Cameron Jackson (Burlington South):** On that point, would it not help the process to fast-track certification if you only required 20% to express their wishes and then fast-track your vote, so that you avoid most of the acrimony that's associated with whether you had one too many cards or were one short a card or whether they were obtained inappropriately, and all the nonsense that seems to extend the process?

I'm sorry. I attended school in this province. I've a very early understanding of what the importance of a ballot is. We've heard from workers who've had bad experiences on both sides, from an employer who was rough and abusive and from overzealous union organizers. They said: "Look, I want to join a union, but I want to avoid all this acrimony. Let me have my ballot. Let me have my vote."

If you do it quickly, you can do it before anybody tries to organize to try to stop you. Time is the big killer in terms of certification from what I understand, and I'm not completely at arm's length from the labour legislation and how it works in our province. That's what I'm trying to understand.

Last night we heard a lot about control and controlling our people. That bothered me all last night when I was thinking about it and this morning when I woke up. Somehow the process has to be a lot better. We do it to get elected. We take our chances, but generally the good triumphs over the bad, because the public knows there are no repercussions for what they do.

**Mr Parent:** See, that's where I have great difficulty with listening to the hearings that have been going on, because at the same time that you're saying to have a vote, where simple plurality puts you in office, you're still saying and maintaining that it should take 55%.

**Mr Jackson:** No. I wouldn't have gone on building on this question that was started over here, but it's based on—we have a government with 29% of the support of the Ontario people. We'll accept that. We're saying 20% have expressed an interest, 20% of the membership of a workplace—

**Mr Parent:** So why have a vote, though? Why have a vote?

**Mr Jackson:** So the other 80% can now avoid all the pressure tactics and the acrimony and the fight and being watched, their boss threatening them and all that stuff.

**Mr Parent:** But see, all that will go away if you let access to the organizer on to the property. If you let the organizer go in and get the list, all that stuff that you're talking about will all go away. It's all gone.

**Mr Jackson:** If there's a supervised ballot, there shouldn't be a problem with lists. We're going to have Ministry of Labour arbitrators coming out of our ears. Why not have a ministry of arbitrators overseeing votes with lists? Now the arbitrator screws up, and that's what's going to put whether or not the company can avoid a union in jeopardy is because the government screwed up. The Ministry of Labour's supervised vote screwed up. That just made more sense to me.

But I'm saying you don't have to have 50%. Let 20% of the workers say they like it. They'd have certainly survived at Eaton's in my community if they had just allowed 20% and then had a vote, had it all done within a couple of months.

**Mr Parent:** But I still have a real problem in understanding why you're so adamant about having the vote.

**Mr Jackson:** I wish we had all day.

**Mr Parent:** We do. I'm here. You're here till tomorrow. London's not till what, 2:30 tomorrow?

**Mr Jackson:** I was a little disturbed when I heard that it's a narrow view of democracy when the citizens of this part—we have a very well-educated population, a trusting population. I have to risk with every citizen. I can't select which ones I can risk giving them all the facts, and I take my chances with the facts.

I think unions have a strong case. They should be able to risk it with a secret ballot.

**Mr Parent:** The only thing that we're saying is, it doesn't need that secret ballot. It needs those people coming to us, saying they want to be organized. That should be enough for this government and for any Ministry of Labour or anyone else.

**Mr Jackson:** It looks like tonight I won't sleep, because that word "control" keeps coming up all the time for me.

**Mr Randy R. Hope (Chatham-Kent):** I know the work that you do in Windsor and area. One of the questions is, how do you actually get down to a vote, the certification? Why do people want unions? I'm going to use two hypothetical cases: one of a workplace with good working conditions, it's non-unionized, good wages, good benefit program. Now let's look over at the other workplace: poor working conditions, low wages, no benefit programs, no structure in place whatsoever for cooperation. Gary, being as you're the so-called labour profile in the community, when people come to you, which group would come to you for a union to represent them? Would it be the good workplace or the other workplace?

**Mr Parent:** I tried to say that earlier in the questions that were coming from the other side. The person who wants to get organized comes to us. We don't have the time, we don't have the staff in the majority of unions in

this province to go out and actively search people to organize them. They're the bad employers that cause workers to want to be organized. The good employers—God bless them. But it is the workers for the bad employers who are continually seeking out to be organized.

**Mr Hope:** Why I asked that question, Gary, is because the presentation that was made before—you talked about a lot of jobs leaving, a lot of job losses. I'm saying that all of our employers in the province of Ontario can't be bad. They're really putting that every employer is seeing this legislation and they're going to get out.

I read your presentation about people wanting to organize. They're coming to you for help. These workplaces that have a cooperative relationship I don't think would leave. I'm just wondering, because you represent all the workers, and I'm sure that all of the unions in here that you represent are not bad unions.

**Mr Parent:** Not at all.

**Mr Hope:** Because your presentation clearly put out that you're actively involved in the United Way. There's a worker relationship. Chrysler—you work for the Big Three auto sector, and I'm sure there's cooperation there.

**Mr Parent:** Absolutely. That's why the mini-van is so successful. It's built right here in Windsor.

**Mr Wayne Lessard (Windsor-Walkerville):** Mr LaPosta and Mr Parent, I want to thank you very much for your presentation. I've heard from both of you on several occasions, and I know that you represent a great many of working people here in the city of Windsor, and that you treat the power that you have and the influence that you have to try to better this community, and do that on a regular basis. I know that's what you're trying to do here today as well.

In listening to the submission from the chamber of commerce when they talk about the use of replacement workers, they say, "Well, workers shouldn't have the right to have that security that if they go on a legal strike, their job isn't going to be occupied by a replacement worker." They seem to suggest that if working people were given that right, perhaps it may be abused; that they would say, "We're going to shut down your plant as a result," and hold that threat over their employer's head. They go on to further suggest that if they are given that right and it's abused, employers will just all leave Windsor. They just won't want to operate here.

You've mentioned the cooperative nature of the relationship between the CAW and Chrysler and how well that's working. I would think that another argument that could be made was that giving this right to working people may improve the cooperative relationship between employers and employees. In fact, if employees thought that their jobs were going to leave because of a strike, then they may be inclined to bargain cooperatively as well, because they know that their jobs are going to leave. I wonder whether you have some comments about the suggestions that were made by the chamber that unions are going to go on strike and see their jobs leave because they can't be replaced.

**Mr Parent:** If anyone's been paying attention to the labour movement in this province and the maturity of the



labour movement, the more recent contracts have been settled at a 1% or 2% level. I think also that if one looks at the amount of labour and employer negotiations that have gone on in this province, I dare say that 80% to 90% are settled without a strike, without a confrontation. The only problem you have is when you have employers in a particular plant that want to continue producing at the expense of their workers. Why have the right to legally strike if there's no equality or sacrifice on both parts, the worker and the employer? There has to be a balance. We're saying this legislation gives the balance, and let's get back to the bargaining table, employer and union, and settle the strike, never mind continuing on and having bad feelings.

1430

I just want to cite an example. I understand you're going to be having the OSSTF make a presentation to you today, but during that strike, which was predominantly women, they brought in those people. How would you feel if someone came into your particular place of employment and your employer said, "You've got to train Nick here because you're going on strike next week"? How would you feel? Absolutely intimidated, and that's what happened right here in this community. Bad feelings still exist in the board of education as a result of that, I dare say.

That's the type of intimidation that has to come to an end in this province, and that's what we're hoping we're going to get in this. I can remember Bill 208: "We can't give the workers the right to shut down the plant. They'll be shutting down the plant every day." Has that happened? Has that abuse happened? Not at all.

**Mr Phillips:** It's not in the legislation.

**The Chair:** Mr Phillips, I'm sure the Bay doesn't mind you using its time.

**Mr Parent:** All I'm saying is that the workers of this province do have the right to refuse unsafe work in this province.

**Mr Phillips:** It's out of the legislation, just for clarification.

**Mr Parent:** They do have the right.

**Mr Phillips:** No.

**Mr Parent:** They do have the right to refuse unsafe work, I dare say.

**The Chair:** Thank you very much to the Windsor and District Labour Council, Nick LaPosta and Gary Parent. You have made an important and valuable contribution to the process. The whole committee thanks you for being here.

#### THE BAY

**The Chair:** The next participant is the Bay. People, please, seat yourselves, tell us your names, titles if any, and start telling us what you want to tell us.

**Mr Jerry Nicholls:** My name is Jerry Nicholls. I'm the regional human resources manager for the Bay in Ontario. The Ontario region of the Bay consists of 30 stores ranging from Oshawa to Windsor and we employ approximately 6,000 people in those stores.

**Mr Gary Hills:** My name is Gary Hills. I'm the store manager of the Bay at Devonshire Mall here. I've been

there for three years and I have about a total of 10 years' experience with the Hudson's Bay Co.

**Mr Nicholls:** I have worked for the Bay for 44 years, the last 25 of them as a human resources generalist, 22 of those years in Ontario. I know you have received a brief from David Crisp, the Hudson's Bay Co vice-president of human resources, that outlines the company's concerns. I'm here today to discuss our concerns at the store level and, more specifically, at the store level in Windsor.

I started in retail with the Bay as a grocery stock clerk and have progressed with the assistance and support of the company to my present job. I'm here today because I am concerned about the impact that Bill 40 will have on the future of retail in Ontario.

The Bay, which is a part of the Hudson's Bay Co, is of course one of Canada's oldest corporations and largest retailer, with headquarters in Toronto. The Bay employs 10,000 people in Ontario; two thirds of those employees are women. Our Ontario sales account for about 38% of the total Bay sales.

This year, we purchased, renovated and recently reopened four Robinsons stores, two in Hamilton, one in St Catharines and one in Ottawa. We hired over 90% of the Robinsons' former employees. That's approximately 800 people who probably would have been out of work had we not taken over those units.

Our company spends approximately \$1.7 million in direct employee training in Ontario, and if the employee time spent at those training classes is included, the figure rises to nearly \$8 million.

We are responding to the needs of a changing workplace. We employ a wide variety of people, both full-time and part-time employees. By offering part-time employment we fill a need in the marketplace for people who need flexibility in their work schedules. For example, two of my trainers back in Toronto are actresses who work and train for the Bay between shows, not only providing them with some continuing income, but giving them an opportunity to practise their skills in the classroom. Another one of my trainers is a flight attendant on one of the airlines, who's on layoff and works for us whenever he's available. We have many women who work for us part-time on shifts that complement their husbands' shifts at various plants and factories so they do not need day care or babysitters.

We're open Sundays. We're not encountering any difficulty staffing our stores on Sundays. It's strictly voluntary and we're providing more employment in a community. Our part-time employees are paid the same hourly rate as full-time employees. They receive the same employee discount. They can join our pension plan and they can even participate in our company share-purchase plan.

We are committed to empowering our employees, involving them in the decision-making process and in our stores. For example, before a major sale in a store like Gary's, we form a store committee that may consist of two or three salespeople, a clerical, a visual presentation person, a maintenance person. They meet as a group and decide how the sale will be implemented, what kind of contests there will be for the staff, what kind of hours we should open, all those factors that go into making that sale.

Bill 40 adds another layer in this relationship between us and our employees. It will impede our efforts to allow employees to participate more fully in workplace decisions.

We are in the forefront in North America computer-based and expert systems training. Our employees can access a computer terminal and take any number of our 80 available courses to help them do their current job better or to prepare themselves for advancement. We supplement this modern technology with hands-on role-playing and classroom instruction. Our employee compensation exceeds that of US competitors, Quebec and most other provinces. We pay the same rates and benefits whether our stores are union or non-union. The Windsor store is a unionized store. We have five other unionized stores in Ontario.

When I started in retail, good employers were pretty paternalistic. Now it's the government that's paternalistic and wants to legislate where common sense and good judgement could prevail. A healthy, growing retail sector depends on mutual cooperation between management and staff both sharing a common goal and both benefiting from the success of the enterprise.

The proposed legislation will make it difficult for the retail sector in Ontario to continue to survive. The Windsor store, if impacted by a strike and not able to operate with employees who work there and wish to work, will quickly lose its customer franchise, leaving only one major retailer in this area.

Our unit is unionized, and both the union and management have a vested interest in workable contracts and resolving disputes or negotiation, but good working relationships cannot be legislated; they must develop over a period of time and in a climate of mutual trust: Arbitrators do not know our business and most issues are better resolved through negotiations between management and the union.

There are some very real concerns in the Windsor unit. If our loss prevention and security people are to be part of the same union as other employees, that provides a real conflict of interest, and Gary will speak to that later.

We have a leased operation, the optical department, which is non-unionized, in our store. Under this legislation it could be picketed within the store as part of an organizing drive. What happens then to the customer who wants to buy cosmetics or women's clothes? Customers do not want to shop in a store where picketing or leafletting is taking place. It's easier to drive over the bridge or through the tunnel to Detroit only 10 minutes away.

The ban on replacement workers is particularly harmful to retailers. A food store with perishables with a very limited shelf life can suffer quickly. Department stores sell a lot of seasonal merchandise which in a few weeks is out of season and only marketable at heavily reduced prices.

The proposed ban on replacement workers tilts the relatively even playing field towards favouring the unions over the management in negotiations. Who benefits if a strike forces us to close our doors? We're a large organization, but each of our stores must be viable or we cannot keep them open, and if we close, employees lose their jobs, governments at all the various levels lose their taxes,

suppliers, transportation companies and manufacturers all suffer.

We're concerned about consolidating full-time and part-time employees in one unit. They have dissimilar interests. Part-time generally are employed on a short-term or casual basis. Full-timers typically seek careers and job securities.

#### 1440

In Windsor we employ 80 full-time people and 146 part-time people in our store. Of that full-time group, 20 of them have been with us since the store opened in 1974. Of the 20 supervisors in that store, 13 of them have been with us since 1974. Three out of the four management team are long-term Windsorites and have been with us since 1974.

We believe we're a good employer. We believe this bill will hurt us, will make it more difficult for us to manage. We do not believe arbitrators should have their powers widened to arrive at any conclusion regardless of what the true parties agreed to. This undermines the notion of making an agreement.

Employers will be entangled in a web of legislation and the griever, if he doesn't win the issue, can go on and take legal action, human rights action, employment standards action or the Charter of Rights. So there's lots of avenues for people to pursue.

The retail industry is struggling. The Bay is struggling. With a recession and reduced purchasing and spending, cross-border shopping a major factor in Windsor, and high levels of taxation at all levels of government, we do not need more complex legislation to impede our opportunity to work with our employees to survive and grow.

Before I close, I'd like to turn it over to Gary.

**Mr Hills:** I'll be very brief. I just want to address some issues which impact me as a store operator in the Bay store here in Windsor. Retailing is brutal, particularly here in Windsor. Believe me, I've thought about a career change many times. Anyway, there are three issues I want to touch on and have concerns over.

The first issue is that my employees will be unable to work in the event of a strike, and I have some concerns about that. Employees lose the right to work. Quite frankly, I don't understand that. They lose the freedom of choice; I don't understand that. Some of my 200 staff are self-supporting, single mothers. Many are in family situations where their spouses are either on permanent or temporary layoffs. I have a real concern over the welfare of some of these people.

In addition to that, I guess a union is perhaps like a company: Some are in sound financial shape; others aren't. I don't know if there are guarantees of strike pay or not, so I just have some real concerns for the welfare of some of my employees. I believe that they should have the right to choose to work if they so desire.

Second, I think in the long term both employees and retailers can stand to lose with this particular issue or proposed change. Retailers will close. My store would close in the event of a strike. At any given time, I carry anywhere from \$6 million to \$16 million worth of inventory. Certainly this inventory, in the event of an extended strike



or even a short-term strike, is going to depreciate and lose its value. If you look at a food retailer, you might be talking a matter of hours. In the fashion department store business, a few weeks can make an incredible difference. "Today's fashion item is tomorrow's rag" is an expression that can be used.

My concern is that I believe retailers, at all costs, would be forced to avoid a strike, to perhaps capitulate to unreasonable demands if they were to occur and to settle for perhaps more than we can afford to settle for. I also feel that should this happen, in the longer run you can damage the long-term viability of your company and, as well, your employees' welfare.

The second issue I want to touch on—I guess I can also speak on behalf of the merchants at Devonshire Mall because I sit on the merchants' association board—is the right to picket in malls and stores. I have two concerns about this matter.

The first concern is that I feel it's a health and safety issue. I honestly believe that we're talking about situations which would possibly present real risks of personal injury to customers, employees and employers. Malls are very busy. What a mall is, essentially, is an indoor pedestrian thoroughfare. I'm sure all of you know that at certain times there is just an incredible amount of traffic and activity in the shopping malls we have in Ontario right now. So my first concern is from a safety point of view, and that's not even touching on the possibility of confrontations.

The second concern I have is the fact that in many shopping malls often the distance between two independent operating businesses can be as little as one foot. I feel that both retailers and their employees can suffer severe negative consequences due to the proximity of a picket should it be set up within a shopping mall. I can tell you right now, I firmly believe that when you're a foot away, if you're picketing in front of an independent store in the mall, the sales of the three, four or five units right beside that store will probably decrease. When that happens, and it would happen almost immediately, the managers of those stores—the first thing I would do is I would slash my payroll. Either I would lay somebody off or I would reduce the hours of my part-time employees.

The third issue I want to touch on briefly, and Jerry alluded to it, is that I have a concern about the proposal for allowing my security staff to be members of the same union. I can see the possibility of a conflict of interest for my loss prevention staff as well as a conflict of interest for the union.

In the department store business and in many speciality retailing stores, stock shortage is one of our most serious profit drains. Take my word for it, when January comes and we take inventory and find out what the stock shortage is, you've got all your fingers crossed that it's going to be a good result. Our loss prevention staff are responsible for the containment and reduction of basically three things: external theft, internal theft and the monitoring and enforcement of store rules, regulations and procedures.

The conflict of interest, which I see as a serious problem, could arise because at times in a department store setting, security staff must investigate matters involving other

employees. It's unfortunate but it's unavoidable. Internal theft is extremely difficult to find out about, let alone catch somebody in the act of doing something. I don't know how big the problem is and I don't know if anybody really has a good idea how big that sort of problem is. But I can honestly see that being members of the same union, there would be a conflict of interest for security staff.

As well, should a grievance arise because of such an internal security matter, you've got a union that's got two members: one's the security employee, the other's the employee involved. I can see that possibly as a potential conflict as well.

Those are the three main issues that I think are going to impact myself as a store operator and impact the employees who work for me in the Windsor store. I'll turn it back over to Jerry.

**Mr Nicholls:** We appreciate the opportunity to provide input to the committee, and Gary and I will be pleased to answer any questions that we can.

**Mr Tilson:** I'd like your comment. My view of what this bill does specifically with the subject of the replacement workers is that now the strike essentially gives a union the right to shut down the company, because you can't operate. It takes away your right to manage. There's no two ways about it: That's what the strike means.

I know you've commented about that in your paper, but it's a major change from what we've been accustomed to. There's great ado about scabs and violence and all kinds of other things, and I personally question whether the way to do it is to simply remove it as opposed to dealing with those issues of violence and other means of breaking the law. But I'd like you to tell me specifically the effect of doing away with your right to manage.

**Mr Nicholls:** You're right on. Your comments are exactly what would happen in a store. We've dealt with unions for many years, ranging from Victoria right through to Sarnia, when we had a store there, and we had very few strikes because both sides were forced to negotiate: the retailer—management—and the union. But if we go to the bargaining table with no power to operate our stores, then the power's all on the union side. They can say, "Look, you accept our offer or we'll walk and we'll shut your store." What's the incentive for them to bargain?

1450

**Mr Tilson:** What would happen to a firm your size if you simply did not have the right to manage, if you didn't have the right to operate, which you won't have if there's a strike called?

**Mr Nicholls:** Eventually we'd fold up. We'd have to. We would have to go into a different line of business. Our business is very people-intensive.

**Mr Tilson:** I'd like to question you on one other area that you raised. I guess there are two areas: the unlimited right of trespass in organizing and the subject of picketing. Picketing is to disrupt—I don't know whether your store is separate or whether it's in a mall—I'm not familiar—but perhaps you could comment on your knowledge of other stores if it's not. How far should that unlimited right of trespass go? Obviously the union has the right to organize

and the union has the right to picket, but how far should that right of unlimited access, unlimited trespass, go?

**Mr Nicholls:** I certainly believe that it should be restricted to the property lines of the company that's being picketed and not in malls and not in individual units. I think the customer has a right to shop and the employees who want to work should have the right to work if they want to. Setting up more picket lines, more opportunities for confrontation, is not the way to solve the problem.

**Mr Tilson:** Have you received any legal opinion about the effect of leases? In other words, if there's picketing going on in a mall, the obligations of the landlord or the owner of the mall with respect to the right of someone who's not involved in the dispute to say: "There's disruption. My business is being disrupted and challenged," and challenge the landlord for not bringing peace to the mall?

**Mr Nicholls:** I'm sorry, I haven't had legal opinion on that.

**Mr Hills:** I think that's probably an unknown quantity right now. On speaking with the general manager of the Windsor properties for Cambridge here—he's very concerned about the matter and I guess his company is looking at the ramifications, but one thing is for certain: It's kind of like when people are driving down the road and you see an accident on the side of the road. People slow down, they take a look and then they keep on going. I think in the event you're going to set up pickets in a mall, people will probably veer to the other side of the mall and keep right on going. The businesses that are right beside that picket front are going to suffer. They're innocent victims of the particular situation.

**Mr Lessard:** Just to follow up on the picketing, the way you would like to see it restricted is that pickets wouldn't be able to be at your store and they would not be just outside the doors of the mall, so the only place they could picket would be out at the entrances and on public property, on the public roadways. Wouldn't that be more confusing to customers? They might think the whole mall was on strike and just continue down the road.

**Mr Nicholls:** No, when I said "property line" I meant the company property line. We don't own all the mall. There's 10 feet or something out from the store itself that's our property and the balance belongs to the mall. I wasn't suggesting they be extended to the perimeter of the mall.

**Mr Lessard:** So they could picket in that 10 feet just outside the store?

**Mr Nicholls:** Outside the store, but not within the store and not within the mall.

**Mr Lessard:** You sound like you have a fairly good working relationship with your employees, and that's good to see. I think that's the sort of relationship that we like to encourage between all employers and employees. I wonder whether, in preparation for your submission today, you had an opportunity to discuss any of your submissions with the union representatives.

**Mr Nicholls:** No. I didn't, certainly.

**Mr Lessard:** Is there any situation in your involvement with unions where there's been a strike where replacement workers have been used in Bay stores?

**Mr Hills:** I certainly can't comment. I have no knowledge.

**Mr Nicholls:** No, I can't remember one in the last 20 years.

**Mr Lessard:** I'm trying to wonder how you think this legislation might change what has been the practice all these years.

**Mr Nicholls:** The practice, of course, has been that we could open and run with employees who were working in the store but not necessarily union members. They may have to pay union dues, but they have not signed a union card. They would want to work, many times.

**Mr Hills:** There are many of our employees who have to work, and given the choice they will work. It's up to us, as runners of the business, to make a decision as to whether or not we have enough volunteers, much like every Sunday that comes along; it's a voluntary nature. I have to make a decision as to whether or not we have enough people to do business that day. So far we haven't had a problem. But in the eventuality of a strike situation, the same thing would happen. I would have to poll my total employee group and see who would be willing to work. As I mentioned before, we have a lot of employees for one reason or another in our store who I would hazard to guess would choose to work because they have to do so.

**Mr Michael A. Brown (Algoma-Manitoulin):** I'm interested, because I think you made a number of points that should at least have us thinking seriously about this legislation, in whether you had input into the minister's round of consultations. Did you have the opportunity to present before the minister or the parliamentary assistant?

**Mr Nicholls:** I'm not sure. I certainly didn't for the Bay. Someone from the Hudson's Bay Co may have.

**Ms Sharon Murdock (Sudbury):** The company did.

**Mr Brown:** I'm told by the parliamentary assistant the company did.

Did you see, then, some of your concerns reflected in the drafting of Bill 40, which I guess we first saw on 12 June or around that date somewhere? Were the company's concerns at all addressed by what the government heard out there?

**Mr Nicholls:** I'm not sure what the company presentation was at that time. It's kind of a hard question to answer, because the bill could have been a lot worse. It could be disastrous, but it's only a mild disaster at this point.

**Mr Brown:** It's a moderate disaster. That's good. You've had experience with unions, some of your stores being unionized and I take it some not.

**Mr Nicholls:** Yes.

**Mr Brown:** Are the arrangements from your point of view quite different in the unionized stores than they are in the other operations?

**Mr Nicholls:** Yes, the whole management process is much more difficult in the unionized stores. It's much



slower. It's also more costly to run even though the wage rates are the same, because we don't have the same opportunity to work with the people one-on-one. We're not able, in effect, to be as productive in a union environment as we are in a non-union environment, even though we pay the same wages.

**Mr Brown:** Are there superior benefits in the union environment?

**Mr Nicholls:** No.

**Mr Offer:** A very short question. Thank you for your presentation. I would like to ask a question on the security guard issue. I think that is extremely important.

Unfortunately, I think in the time permitted I can only go to one other area. That is the organizing or picketing on third-party, private, property. One would have us believe, under Bill 40, through the press releases, that this was limited, really, to the industrial mall or the retail mall setting. Clearly when you read the legislation the impact is much broader than that. It is not limited to the mall setting. It is not limited at all. It can apply to stand-alone firms.

I know that you alluded to it earlier. It's the non-involved store owner's concerns, the non-involved workers within a store not involved in any organizing or picketing, that we've been told this would apply to. For instance, a food court, where organizing or picketing could take place in front of one area and could have an impact on everyone else. Have you got any suggestions as to what should be done?

**Mr Hills:** I guess I'm not in the capacity where I can offer suggestions on behalf of the Hudson's Bay Co. I would be sort of overstepping my boundaries. It's a tough question to answer. Perhaps, just taking a shot in the dark, having an arrangement whereby signs can be posted at a store entrance, saying, "The employees of this particular store are struck currently and we for ask your support," something to that effect rather than actually endangering the business of the surrounding businesses.

**The Chair:** Thank you to the Bay. Mr Nicholls and Mr Hills, we are grateful for your taking the time to be here this afternoon. We appreciate it. You played an important role.

1500

#### CAW CANADA

**The Chair:** The next participants are the Canadian Auto Workers, Canada. Please tell us who you are, your titles.

**Mr Basil Hargrove:** Yes, I will.

**The Chair:** For some of you, that will be no surprise to any of the people here; others may be less well known.

**Mr Hargrove:** I thank first the committee for allowing us to appear and giving us the opportunity to appear today. I'm Buzz Hargrove, president of the National Automobile, Aerospace and Agricultural Implement Workers Union. To my right is Lewis Gottheil from our legal department. Frank McAnally is the president of Local 200 in Windsor; he also is the president of the CAW council, which covers all workers in our union across Canada, and sits on our national executive board. To my left is Peggy

Nash; she's my assistant. To my extreme left is Larry Bauer, president of Local 444 and national executive board member of the CAW.

**The Chair:** Welcome.

**Mr Hargrove:** I was only kidding when I said he was on my extreme left, of course.

**The Chair:** Mr Tilson has been to my left throughout all of these hearings.

**Mr Hargrove:** Let me start by responding to my description of a mild disaster. Mr Chairman, if you can view these moderate changes as a mild disaster, I suggest that if it were me, I would never leave my home in the morning. I'd probably lock myself in the closet and stay there for the day. These are moderate proposals and the business response is predictable, but not supported by fact. All of the things that are being raised, all of the fear tactics, all the scare tactics, in my opinion are not supportable by facts.

The opposition is clearly ideologically based; it's philosophical. It's about recognizing that this does give workers a bit more opportunity to belong to a union and it puts a little more fairness in this system, so if workers have a dispute with their employer that they can't be thrown in the street and replacement workers brought in.

To emphasize what I've said, at a recent meeting of some major parts suppliers and presidents of companies, this was raised, this big fear of what this was going to do to the companies. I challenged them in each instance to tell me what changes in the labour reform act would harm their operation. I said: "If you can point that out to me, I'll gladly pick up the phone and call the Premier and say to him, 'Look, Mr Premier, it's your bill, but I'm concerned about this. I agree, this is a threat to business investment in this province and I think you ought to take a second look.'"

At the end of the three discussions with the same group of people, each one of them said, at some point during those discussions: "Well, I'm not arguing. This is no threat to my operation. But as a business person, if you ask me, 'Do I agree with this,' the answer is, 'No, I don't think it should take place,'" but there was no basis in fact in terms of the argument that this somehow threatened a business.

Two or three points I'd like to make before I do a summation of what I think the real issues are here and deal with some of the mess that is out there. First, I don't think the reforms—they are moderate. They don't go far enough. Petitions, for example, have no place in an organizing drive. The committee ought to recommend to the government that it eliminate it, period. When a worker puts a signature on a card saying, "I want to join the union," that ought to be acceptable. If I sign my name anywhere with Hudson's Bay to buy anything, once I sign my name, I'm committed, I'm in to buy that program or whatever it is I'm committing to.

I might, within 48 hours, decide I'm out or find a way, if I have enough money, to hire a lawyer to get out, but generally, I'm in. So a signature reflects what a worker's real intention is. A vote reflects or a petition reflects the ability of the employers, once they realize there's a drive going on, to influence that drive by intimidating workers in a number of ways.

I'm not going through them all, but I think it's fair to say, when you have the signature on the paycheque, the ability to threaten someone's livelihood or to take away their rights on the office or shop floor and move them from what may be a decent, clean place to work in the enterprise to one of the worst jobs in the enterprise at different rates of pay—there are all kinds of penalties that employers can impose on workers that would force them to do differently when they're faced with an employer-sponsored petition. We find, in almost every instance, the petitions are employer-sponsored.

As well, when I look through the proposed changes, the anti-scab part, the adjustment program bargaining part, a lot of pieces in the bill are very progressive, but the problem is there's no enforcement mechanism. The committee, I believe, should be recommending to the government that there be a way to enforce. It's, as I said, like Michael Wilson keeping the auto pact in place under the free trade agreement, but the tariffs are eliminated. The auto pact can be in place, but if there are no penalties, if someone doesn't meet the requirement, then there's no mechanism, there's no enforcement, there's no reason why the employer would live up to that piece of the legislation. It's very important that this be addressed.

Rights of workers to a grievance procedure whether they belong to a union or not: Surely, in the 1990s, employers should face a test, if they fire someone, as to whether or not they've done it in a fair manner, whether they give that person a hearing. That person should be entitled to a hearing. There should be no argument about that. I can't believe or understand why that's not part of the proposed changes in 1992.

Let me deal with the question of plant closures and restrictions that are not in the bill. Again, I'm having a difficult time understanding why we don't recognize—one of the most serious problems facing our economy today is the right for employers to simply close up shop and leave the province, leave the community without any justification or any kind of commitment to the workers or the community. The bill doesn't address that at all, and any thinking person who's watched what's happened over the last three years in the province of Ontario would say, I would think, in making this kind of reform, that there's an obligation on employers to justify to the community why their closure is taking place and look at all of the things that went into the decision-making.

One last point on the bill, I think, should be changed. It always amazes me in automatic certification that we have to meet some kind of superdemocratic test of 55%. In most jurisdictions it's 50% plus one. The test ought to be, "Are the majority in favour," and when the majority has signed a petition, that ought to suffice. So the committee should recommend that the 55% be reduced to 50% plus one.

Let me deal with some of the arguments I saw on the auto industry in terms of investment and what this means for investment. First, I think in terms of investment in the province in the last two years, the auto industry has been the leader and continues to be the leader. This morning I talked to the top labour relations person from General Motors, for example, and in spite of what's being said out there publicly by their spokesperson, they gave us some

more good news in Oshawa this morning. They're going to extend the lifeline of the Buick Regal and Chevrolet Lumina until the fall of 1995. It puts a great deal more security into that operation in Oshawa, and I'm sure the community feels very good about that today as well as the workers and their families.

Look at General Motors in Windsor, which just a few months ago announced a \$400,000 investment to put a new line of four-cylinder transmissions in here. That puts a great deal of security into this transmission facility for a number of years to come. The trim plant got a major new order that runs out in 1998-1999. These decisions were made knowing that the government was looking at labour reform. Both of these operations not only supply plants in Ontario but the trim plant, for example, supplies 16 assembly facilities throughout North America. The transmission plant: Not that many, but a lot of assembly plants throughout North America are supplied from these facilities in Windsor. General Motors feels very comfortable that they will have their production here and they will be able to provide that product to their assembly operations.

There are two instances where General Motors has scheduled facilities to close which we're still talking to them about. One is in St Catharines and the other is Scarborough. If you look at St Catharines, it has absolutely nothing to do with labour reform or labour relations. They have a good relation with their union, they have high productivity in the plant, the quality is excellent. It's the size of the plant, the way the industry developed in Canada. "We need a large plant. We have one in the US. We have a small one in St Catharines." They apologized to the workers, with whom they have a wonderful relationship. They didn't want to close the plant, but that's a business decision.

#### 1510

In Scarborough, same problem: It's an old plant building a small van at low production levels and it's landlocked. There's no room for expansion, no room to do anything further.

That's GM in Ontario.

Ford, Windsor: \$1.1 billion to open an old engine plant, regut, rebuild, a brand new facility, a lot of security, just announced in April of this year.

Oakville: \$1 billion; \$500,000 to put a paint shop in and \$500,000 to put a new model, a new minivan. A world class minivan will be going into production there in September of this year. I joined with Ken Harrigan of the Ford Motor Co and the Premier of Ontario in opening that paint shop last week; a lot of security there.

Chrysler Bramalea: Three weeks ago I joined with Lee Iacocca, the Premier of the province and Michael Wilson in launching the LH model. The LH model, for the committee members who don't understand it, will mean that all of Chrysler's midsize and large cars will be built in Canada, starting in June of this year; in September of this year they will all be there.

Add that to their minivan facilities that over the last 10 years have provided over 50% of the profit of Chrysler, and the maxivan plant which is like a licence to print money for the corporation. Chrysler for all intents and purposes is a Canadian corporation, but more importantly



for the work of this committee, it is an Ontario-based corporation that showed it has major confidence in the future of Ontario by the announcement and putting this incredible investment and all its future in the Bramalea assembly plant.

The parts industry: I read Neil De Koker's presentation to this committee. The parts industry, by its own study—they have a study and it's available to the committee here and it's dated March 26, 1990—the people who produce parts for the auto industry, when they look around, they say, "What is the thing you look most at?" The first thing they mention is the location to the assembly operations. With the investments I just talked about and the other plants that we have in this province, we have the capacity to build 1.5 million cars and trucks.

Did I say something funny?

**Interjection:** Not yet.

**Mr Hargrove:** Your colleague probably thought I did.

We have the capacity to build 1.5 million vehicles within a two-hour drive of where the major parts producers are in this province, and that's a major incentive for the parts companies to invest in Ontario.

The second most important issue, and these are their members I'm talking about, is training: skilled workforce education and training. Our union put forth the proposal which was accepted by the Ontario government and the federal government, and belatedly by the auto parts manufacturers, for an auto parts training council which will start up in September. It was an initiative of CAW and it will provide expert training for 10,000 workers who will be issued a certificate when they finish that training.

It will allow them to move to any other operation in the auto parts industry with ease and be able to move into the operation and do the work without a lot of training—very, very important. Every parts manufacturer I've talked to has stressed the importance of this initiative by our union. The other one was the availability of service.

Let me conclude my presentation on what I think the problems are in the auto industry today that Mr De Koker should be looking at.

Japanese imports: Japanese multinationals import. Over 30% of our market is supplied from Japan by Japanese manufacturers, and they have very little in terms of investment in jobs in Canada. Let me give you the comparison to General Motors. General Motors has about the same share of the Canadian market, about 30% of the Canadian market.

General Motors has 36,000 hourly rated jobs in Canada, most of them in Ontario. They purchase millions and millions of dollars of parts from the parts industry in Ontario. The Japanese have the same market share. The top four or five companies have the same market share, or even a little better, a little better than 30%. They have less than 3,000 jobs in Ontario. Less than 3% of the auto parts jobs in this province go towards supplying these assembly operations. Their operations are shipped in from Japan and their US plants and brought into Canada and assembled in small operations in Alliston and Honda.

If we could get the level of imports in Canada from Japanese companies from 29% down to what they are in the US, 23%, and if those were translated into work in our

plants by General Motors, Ford and Chrysler, which is conceivable, 15,000 jobs in the auto parts industry would be overnight.

Two last points: The auto industry in Canada, both the parts industry and especially the majors—General Motors can attest to this if it's honest. Bankruptcies, where the receiver shows up in the middle of the night and puts a lock on the door of the parts companies—the latest one was Van Dresser in Waterloo—without any notice, with all the tools and dies from the major manufacturers in the plant, has cost the major manufacturers in this province millions of dollars in production, way more than any labour dispute we've had with the auto manufacturers in the last several years.

Most of our agreements in the parts industry are bargained early, before the expiry date, and if they don't, General Motors, Ford and Chrysler move the tools and dies out of the plant, so there's no threat of this just-in-time or no threat of anti-scab legislation having any impact on this.

I said to George Peapples in a recent letter, "You've lost more production in the last three years in Ontario as a result of traffic jams on the 401 than you have with labour disputes," and as of today he hasn't disputed that.

**Mr Pat Hayes (Essex-Kent):** Thank you, Buzz: a very good presentation. I have in front of me a copy of the Automotive News, and in this article it certainly tries to indicate that you're trying to do something different than what your presentation said today about working together. There are some quotes here, some comments that were made by this writer. It says, "Limit the power of corporations, improve workers' wages and benefits, restrict Asian imports, restructure free trade agreements." It goes on to say, "That is Buzz Hargrove's perception for protecting Canada's auto workers from recession and what he sees as the growing power of Canada's corporations."

I know we don't have a lot of time, so I won't read the whole thing, and I'm sure you've already read the article yourself. These are some of the arguments we continually get from people who are representing corporations and some of the lawyers like Mr King, who was here earlier, this fear of tilting the power towards the workers. It always seems there are people who feel that the balance is nice today and that we should just stay with the status quo.

By this piece of legislation, in your opinion, how much extra power do you really think the workers are going to have in this province?

**Mr Hargrove:** Not a lot if you ask me, Mr Hayes. The argument certainly is about power, and the problem that a lot of the corporate world has is that if workers are making any kind of progress at all, if there's any kind of fairness being put into the system at all, it's much more difficult to roll back the clock. I think that's what the argument is about more than anything. Clearly, it's about power, but people who are making the arguments today want to see the power go the other way. They want to eliminate the rights of working people to join unions and make it more difficult, and turn all of the power over to the corporations. That's what I was trying to say in my remarks.

**Mr Hayes:** There's another issue that people keep raising here, talking about other jurisdictions. We know that in the province of Quebec, for example, since they put in the legislation that would restrict replacement workers, the worker-days lost were reduced by 30%, since that time, due to strikes of course.

I know that of course the CAW does represent workers in that province. I'd like you to comment on that, but I also would like you to comment on some of the experiences that people have brought forward to you, and I know they have to this committee, about violence on the picket lines, or intimidation, for example, when it comes to prior to voting on getting a collective agreement.

**Mr Hargrove:** Quebec: It's interesting. I sit on the Labour-Management Advisory Committee to the Premier. We had our first meeting and the business group was using Quebec Inc as kind of the model they'd like to have. I reminded them that they had anti-scab legislation 10 years ago and it's played a major role in getting rid of a lot of the tensions between labour and business. There wasn't much disagreement with that.

Violence on the picket lines, Mr Hayes, Mr Chairman and committee members, is mostly violence against working people on the picket lines by police, security guards and others as they try to usher scabs into the operation to take the jobs of workers who are legally on strike. If you eliminate the right of the employer to bring in scabs, you eliminate that problem.

1520

**Mr Phillips:** Thank you for the presentation. You talked a fair bit about plant closures. That's an interesting area for me. As I look at the plant closures over the last year and a half in Ontario, I think 70% have been unionized. I think the Canadian Auto Workers is the one that has probably been the most impacted. In fact, as I look at the next few months, I think a quarter of the plants that are planned to close are CAW plants.

I gather plant closures are perhaps the number one issue for the CAW, and therefore the layoff of your members. Can you tell us the three or four things in this legislation that will be most helpful in eliminating or minimizing those plant closures that the CAW will face?

**Mr Hargrove:** First, I don't know where you get your statistics. My statistics show that about 40% of the overall closures in Ontario—I don't know whether you want to use manufacturing. What are you using?

**Mr Phillips:** I'm using the Ministry of Labour—

**Mr Hargrove:** Is it manufacturing or does it include retail and finance?

**Mr Phillips:** It's anything over 50 employees and any at a single location. These are numbers I'm sure you have.

**Mr Hargrove:** If you use that, you might be right, but the vast majority of closings have taken place in non-union retail, finance and the food industry. Walk down Ouellette Avenue. Come on out and I'll take you down and show you the closures in this community, and within a few blocks.

**Mr Phillips:** These are them. I'm just using the Ministry of Labour's figures.

**Mr Hargrove:** Again, they're selective, Mr Phillips, and that's fair, I guess, if you don't want to get at the reality. The problem with plant closures is that since the free trade agreement was started by the government back in 1986-87, and actually put in place January 1, 1989, when you take the rules out of the system, when you say to a US supplier like Caterpillar, "You can build all of your product now in the United States and ship it into Canada duty free and all you need is a warehousing operation to do that in Canada," that plant closes and goes to the US. Yes, they were our members. It had absolutely nothing to do with provincial legislation.

I would argue, using your own figures, that all these closures you're talking about have taken place during the last three years since free trade was introduced. There has been no labour law reform whatsoever. Quite likely, there should be.

**Mr Phillips:** What elements will be helpful to your members in the legislation is all I'm asking.

**Mr Hargrove:** If you listened to my presentation, I said the problem with it is that there is nothing in there that's helpful to stop the plant closures. There should be justification. Caterpillar should have had to go before a committee of this Legislature and justify its decision to move out of Brampton.

**Mr Phillips:** I'm trying to get at where the legislation will be helpful to your members on plant closures. You're saying nothing in there will be helpful to your members on plant closures?

**Mr Hargrove:** That's correct.

**Mr Phillips:** Nothing dealing with the major issue for your members?

**Mr Hargrove:** Nothing. In the legislation, as I said, if you listened to my presentation, it talks about employers having to bargain on adjustment programs and that's helpful. But I said if there's no mechanism to force them to take the next step or if they don't do it, there's no enforcement mechanism and then that will be a very toothless piece of legislation. I suggest that if you want to be helpful to our members and a lot of other workers, you come in with a recommendation to change that.

**Mr Phillips:** So you would call this toothless in dealing with plant closures for your members.

**Mr Hargrove:** You call it toothless.

**Mr Phillips:** No, that's what you just said.

**Mr Hargrove:** I said there's legislation in there and it needs a lot of boosting up. It's not good legislation in dealing with plant closures.

**Mr Phillips:** So it's toothless in dealing with the—

**Mr Hargrove:** You can call it what you want.

**Mr Phillips:** I'm sorry, but I think the Hansard will say you said it was toothless in dealing with it.

**Mr Hargrove:** Maybe I did. If I did, good, you can use that, Gerry.

**Mr Phillips:** That's all I wanted to know. Thanks very much.



**Mr Offer:** Thank you for your presentation. I want to deal with another aspect of your presentation, especially that which is around organizing and respecting the rights of employees to make a decision as to whether or not they wish to join a union.

Under Bill 40 there is currently a provision that if the board considers that the true wishes of the employees of an employer cannot be ascertained because of any action taken by the employer, then the drive basically is automatically successful; they're certified. We have heard that though there may be some occasion where this happens, it is not always just the employer, that sometimes the organizers might take part in some action. Now, of course, we have no absolute evidence. Of course, we're getting a lot of anecdotes, but none the less it is coming before the committee.

My question to you, Mr Hargrove, because you've had such a great deal of experience in this area, is, do you think that this legislation, in order to protect that employee in freely making his choice—this particular aspect of the legislation—should be expanded so that if the organizers are involved in a matter for which there is an unfair labour practice and intimidation or a coercion, the certification drive is automatically dismissed and cannot be brought back for at least a year?

**Mr Hargrove:** The recognition of the automatic certification as a result of employer interference, Mr Offer, recognizes that in an employer-employee relationship, it's an issue of power, and the employer has the power, the power of intimidation, the power of taking people's livelihood away.

Interjection.

**Mr Hargrove:** Sorry?

**Mr Offer:** No, my question was the other side. I understand the reason for that very well.

**Mr Hargrove:** No, I'm answering your question. It's about power. The legislation here is reform. It's about helping workers get rid of these threats, about helping them, making it a little easier so they don't have to, each time they want to talk about joining a union, worry about how they're going to feed their families or how they're going to pay their mortgages or their rent, Mr Offer.

It's about just a little step, not a giant step; not toothless, but a little step. We're workers and you're talking about a step for managers. I'm not here today representing managers. I'm representing workers and the legislation is trying to balance the power a bit with workers.

**The Chair:** Mr Jackson or Mr Tilson want some questions as well, I'm sure.

**Mr Tilson:** In your presentation, do I understand that you're saying that companies or managements should not be allowed to close their operations without substantial reason? Did I understand you to say that?

**Mr Hargrove:** Yes, you're right, with justification. There should be justification to the community and to the workers.

**Mr Tilson:** I then get back to the issue of replacement workers, and it's a question that you've been here listening

to, a train of questioning that I've been asking. Essentially, it is that if you have a strike and you're not allowed the replacement workers, essentially that closes down the company. That precludes the—

**Mr Hargrove:** That's the idea of a strike precisely, Mr Tilson, in case somebody hasn't told you that.

**Mr Tilson:** No, that's not why you have a strike. The purpose of having a strike is to encourage the parties to bargain, not to shut down the operation. That's what this legislation—

**Mr Hargrove:** That's different. That's not the legislation; you said a strike. A strike is to shut down the operation. I've been through a few of those.

**Mr Tilson:** Well, sir, this legislation, essentially when you have a strike, is going to preclude the company from operating. They will have to shut down.

**Mr Hargrove:** That's the way it should be.

**Mr Tilson:** But then you're saying that on the other side of the coin, the company shouldn't have the right to shut down or to move. I'm just trying to get you—

**Mr Hargrove:** That's the way it should be. But don't take away their right to do it. What our proposal says is there should be justification. An employer shouldn't be allowed to say, just because it happens to be convenient, that it can make—this Caterpillar plant is the best example and I can give you 50 others if you want.

**Mr Tilson:** I'm sure you can.

**Mr Hargrove:** I've almost got a list bigger than Gerry Phillips's.

**Mr Tilson:** Sir, I'm sure you can.

**Mr Hargrove:** Some \$26 million in three years prior to their closing. There should be no way they should be able to leave that community high and dry without justifying why they're leaving.

**Mr Tilson:** Sir, I'm just trying to get the rationale of it. If you say that a company should not be allowed to be shut down, as I understand what you're saying, you're simply saying "unless the union says so by a strike."

**Mr Hargrove:** I didn't say that. I said the community. They ought to justify it to the community and the workers in place and to the unions in case of closure. If you're talking about the rights of workers to strike, in my description it's very clear: Legislation allows bargaining and bargaining leads to settlements. In over 95% of our collective agreements, it works well, David. You should go out and have a look at it.

**Mr Tilson:** But sir—

**Mr Hargrove:** In the question of strikes, when we have a strike, if there's a strike, if workers feel that strongly that they're going to give up their paycheque, then the employer should give up the right to produce. It's about fairness. It's about putting some fairness into the system.

**Mr Tilson:** If I understand what you're saying, the company cannot shut down but the union can shut down the company.

**Mr Hargrove:** You're not listening very well, but that's fine.

**Mr Tilson:** All right. We appear to have come to an end on that question. My question to you then is that if you are saying that the company cannot hire replacement workers—I'm following along in your observation of fairness—would you agree to an amendment that would preclude the employee from working at another place of employment while a strike is in progress?

**Mr Hargrove:** You already have. The federal Tories have done that.

**Mr Tilson:** No, we're talking—

**Mr Hargrove:** There are 1.5 million people unemployed in this country. You couldn't buy a job. It's a silly argument. There's 15% unemployment in this city. People can't find work anywhere, never mind strikers.

**Mr Tilson:** It's unfortunate you come here and can't answer my questions.

**Mr Hargrove:** To your satisfaction.

**Mr Tilson:** No more questions.

1530

**Mr Jackson:** I come from a riding in a community that produces automobiles and does a lot of parts manufacturing, and a lot of your members are my constituents. I'd be very interested—I'm sure some of the committee might be interested—in looking at the information that you shared with committee about the secondary parts sourcing and what their impact would be.

I'm fairly up to speed on the plants in my riding in the community of Halton, how many have American counterparts, branch plants and so on and so forth, but I would very much like to have that information because we're getting two different stories on it, and I think it's a legitimate concern and we have not received the input.

I think there's been this overall statement. There's been no economic impact analysis on this legislation, but I think the auto sector needs protecting, particularly in this province, because the auto sector is Ontario. Other sectors are other provinces, but autos are Ontario. To the extent that the secondary parts sourcing might have some degree of vulnerability, I think that's something we should look at. It may not necessarily be that the legislation's at fault but that there has to be some additional planning.

Frankly, when I talk to my next-door neighbours, who work at the Ford plant, they're telling me that they're more concerned not about this legislation but about employment equity and training. So I'd also be pleased to receive any information you can share with us or this committee about your training initiatives to prepare for employment equity, because if we don't—that's why we build the best cars in the world, because we have the best-trained personnel. Once you start introducing employment equity to line work—that's what my neighbours are telling me. I don't work in a plant, but they tell me that that's going to hurt the quality of the end product unless we're prepared for it, and we may be putting the cart before the horse. We may be back in Windsor within a year to deal with employment equity and its impact on the auto sector, because from what

I'm hearing from your own members, they've got some concerns. It's my interest in additional information because in my riding it's a big issue.

**Mr Hargrove:** We would be happy to sit with you, Mr Jackson, and go through the auto parts council training. We're doing an enormous amount of training in the auto industry and especially in Ford Oakville. We have a training centre, if you've been to the Ford Oakville plant, and we welcome the challenge of employment equity and bringing in people with disabilities, aboriginal people, women, people of colour. We see that as not one problem. We don't expect one hitch in terms of people coming into our plants.

**The Chair:** I want to say thank you to the Canadian Auto Workers, Buzz Hargrove, of course, national president, and Lewis Gottheil, Peggy Nash, Frank McNally and Larry Bauer. Thank you very much for coming here this afternoon.

**Mr Hargrove:** We thank the committee for allowing us this opportunity. Thank you very much.

**The Chair:** You provoked a lot of response—that's obvious—and you've made a valuable contribution to the process. We trust you'll be keeping in touch. Take care, people.

The next participant is the Greater Windsor Hotel Association. Would the representative or representatives of the Greater Windsor Hotel Association like to come forward and seat themselves.

Not foreclosing them from appearing, is the Chatham and District Chamber of Commerce here? Okay. Would you folks mind coming forward and making your presentation?

#### CHATHAM AND DISTRICT CHAMBER OF COMMERCE

**The Chair:** Have a seat. Tell us your names, your titles and proceed with your submission.

**Mr David McLean:** Mr Chairman, my name is Dave McLean. I'm president of the Chatham and District Chamber of Commerce. With me is Tom Wells, first vice-president, and John Behan, the general manager.

**The Chair:** Go ahead, gentlemen.

**Mr McLean:** The presentations are being passed out now, if I could just wait a moment. I would like to draw your attention to one of the paragraphs. We've had a bit of good news: that we do not enjoy the highest rate of unemployment in southwestern Ontario any more. That's gone to Windsor, as far as I know, so I'd like to amend the presentation to reflect that.

**The Chair:** Go right ahead and carry on, because time is fleeting.

**Mr McLean:** Fine. In the background section on the first page, the second paragraph, you see at the end of that the number of 12%. That really should read 10.3% in terms of unemployment.

We're very pleased to be here today to present our concerns regarding the Ontario Labour Relations Act and Bill 40, the amendments to it.

The Chatham and District Chamber of Commerce is an organization representing the concerns of business in and



around the Chatham area of Kent county. The chamber has over 400 member firms representing approximately 500 individuals who directly participate in the chamber's activities. The Chatham and District Chamber of Commerce is a member of the Ontario Chamber of Commerce and also the Canadian Chamber of Commerce.

Chatham is a community of 42,000 people located on the Highway 401 corridor between London and Windsor. Chatham relies on agriculture, natural gas distribution and the automotive industry for its primary employment.

It is the latter component of our economy that has been most affected by the current recession, leaving Chatham and the region to wrestle with one of the highest levels of unemployment in southwestern Ontario at 10.3%. It is this concern that brings us before this panel today.

The Ontario Chamber of Commerce and the Chatham and District Chamber of Commerce have grave concerns regarding the government's proposed legislation to amend the Ontario Labour Relations Act. The amendments, known as Bill 40, will have a devastating effect on our province and our community of Chatham-Kent.

To support our position, the chamber embarked on some primary research. We gave our members three opportunities to register their opinion about Bill 40. The first was a coupon-based questionnaire asking for responses from those who disagreed with the legislation. Of our 400 member firms, 95 have responded negatively to Bill 40. These responses have been forwarded to MPP Randy Hope's office.

The second means to register opinion was via a more detailed questionnaire regarding investment that has been put on hold as a result of the announcement of Bill 40. Of the 350 forms mailed in late July, we have received 29 responses to date. Of those, 15 indicated investment that will not be made totalling \$1.4 million in Chatham alone.

Finally, in the Saturday, August 15, edition of the Chatham Daily News—it's attached to the submission—24 other businesses in Chatham supported an ad that denounced Bill 40.

As was alluded to in our introduction, Chatham relies on agriculture, automotive parts, truck assembly and natural gas distribution for our primary employment. Much of our membership is represented by these sectors and their respective trade organizations.

Last week, Automotive Parts Manufacturers' Association president Neil De Koker widely condemned the legislation. Many of our members chose to speak through APMA. Similar responses have been registered to this panel by the Canadian Daily Newspaper Association, the Christian Labour Association of Canada, the Ontario Restaurant Association and Tourism Ontario Inc. Like APMA, each of these groups has opposed Bill 40 and represents a significant portion of our membership.

Union Gas Ltd, a significant employer in Chatham, provided a member of their executive to speak to a chamber luncheon. Union Gas also condemned Bill 40, as is demonstrated by the article accompanying this submission.

Finally, agriculture has grave concerns about Bill 40 due to the seasonal nature of their products. It is the agricultural community's understanding that it will be

governed by separate labour legislation. So they do not perceive their concerns to be as pressing, but they have still put forward several concerns about Bill 40, also attached to this submission. These concerns were prepared by Dan Hoy of Pioneer Hi-Bred Production Ltd and submitted through the Chatham chamber's agricultural committee. A copy is attached to this submission.

#### 1540

Our business community is trying to survive the worst economic conditions in several decades. Ontario, because of its industrialized base, has suffered more than most, and as a result, our provincial government's fiscal situation is the worst it has ever been. We must regain our competitive advantage. We must retain the businesses that are here and attract new ones to create new jobs, because without meaningful, value added jobs, we cannot begin to contemplate how we will pay down the massive debt that is staring us in the face while maintaining the level of social programs that we have all come to expect and count on over the past decades.

Our business community and the investment that it provides is the key to achieving this goal, and while we are attempting to become more competitive and productive, Bill 40 does absolutely nothing to help us in our efforts to ensure our viability and the future employment of the people of Ontario. The proposed changes will not create one single job or generate one dollar for our economy.

Bill 40's most controversial change to the existing legislation is that section that prohibits strike replacements. This is touted as a progressive vehicle to help harmonize labour-management relations. The only other jurisdiction in North America that has this law is the province of Quebec.

In the period 1970 through 1977, prior to Quebec passing this legislation, there were 64 more strikes in Ontario than in Quebec. From 1978—the year that the legislation was passed—until 1991, there were 652 more strikes in Quebec than in Ontario, and we believe this hardly bodes well for this province.

An area that should be addressed under this legislation is that of secret ballots. During times of organizing and strike votes, unions are allowed to conduct their business with a show of hands or other less private means. To an outsider, this practice seems rather archaic, intimidating and is undemocratic. This amendment could be used to correct that deficiency.

In spite of the specific changes that are proposed to this legislation, it is the firm belief of the Chatham and District Chamber of Commerce that this legislation will do nothing to attract or retain investment in this province, and without further investment, how can we hope to pay down the provincial debt that we are facing?

It is organized labour's contention that a few recent announcements by a few large companies about some plant investments in Ontario is a clear indication that businesses' concerns are invalid. We believe that this thinking is flawed. It is human nature to accentuate the positives and downplay the negatives. It is reasonable to assume that these large companies, already established in Ontario, will not be overly sensitive to this legislation. They already have significant capital investment in this province. They

are already staffed with unionized workers and a strike will, in fact, shut down these plants because replacing several thousand workers at one time is impractical.

What about those potential investors who are significantly smaller than a Ford or a General Motors or a Chrysler? Those who have the latitude to locate anywhere in the Great Lakes or Midwest states, will this legislation influence their decisions where to locate? And isn't it these types of investors that will be the necessary engine of our economy to put those hundreds of thousands of unemployed people back to work in this province and in this country?

We cannot afford to jeopardize this province's future with legislation that essentially makes it more onerous to do business in Ontario relative to our competitors in the Great Lakes and Midwest states, not when we're already saddled with higher taxes, an out-of-control workers' compensation system, double-digit increases in our electric power rates and a mammoth provincial deficit and debt.

We have an opportunity to accentuate the positive about this province. Canada is described as the best place to live in the world, bar none. Ontario is the heartland of Canada. This tells me that we do respect our workers, that we are not repressive and that Bill 40 has been introduced for a purpose far different than what is being stated by the government of this province.

Our conclusion is simple: withdraw this legislation now. Our research indicates that this is not needed or wanted by our members. If there is a need to reform the Ontario Labour Relations Act, the current one-sided proposals are not the answer. Altering the balance of labour relations is counterproductive to fostering economic cooperation between government, labour and business, and is extremely harmful to the economic health of the province of Ontario.

What is needed is a true consultative process that works, one that enables workers to compete effectively in the global economy and in turn offers job protection for its employees.

Once again, we would like to thank the standing committee for allowing us this opportunity to present our viewpoints regarding the proposed changes to the OLRA. Respectfully submitted by the Chatham and District Chamber of Commerce.

**The Acting Chair (Ms Sharon Murdock):** Thank you very much. I believe it is the Conservative caucus that is to begin. Is it Mr Jackson?

**Mr Jackson:** Yes, thank you. You referenced your members who are in the auto parts sector, and you referenced the report that was discussed by the previous deputants. Has your chamber done any analysis or specific canvassing of those who are involved in parts manufacturing to discuss with them life after this bill, as opposed to responding to the bill? There's a bit of a difference there.

**Mr McLean:** Right. The members in Chatham have elected to go through the Automotive Parts Manufacturers' Association, so they have not responded to the surveys that we've sent out. So when you look at the 45 firms that responded to the first survey and the additional 29, they're mostly small businesses that are residing in Chatham, so

we're here essentially speaking on their behalf today, not the large manufacturers within Chatham, although they do espouse our viewpoints.

**Mr Jackson:** Are there no members of your executive, your political action committee or any of those that you've had informal discussions with—this legislation isn't going to affect CUPW with respect to the Big Three; it's going to affect the parts sourcing, and that's a matter of concern. I'm just trying to get additional information or feedback.

**Mr McLean:** All of the large parts manufacturers in Chatham, from the management perspective, have expressed displeasure with this bill. The specifics will be forwarded to Randy's office, so they will be available.

**Mr Jackson:** Can you get them to the committee? If you do that to the clerk as well, I'd like to have a look—

**Mr Hope:** Do you trust me?

**Mr Jackson:** It shouldn't fall on your shoulders. Give it to the clerk. It'd be appreciated.

**Mr McLean:** We don't have copies here today because the last one about investment was just sent out at the end of July, so we're still receiving responses. We received two more today before we came down here, but certainly we'd be glad to provide them to the clerk.

**Mr Jackson:** I understand we're going to hear from a Mr Colasanti to discuss his agricultural activities, and you have an agricultural group within your chamber.

**Mr McLean:** Yes, we do.

**Mr Jackson:** We've heard a presentation from the Ontario Federation of Agriculture. What else are you hearing from your members in terms of various products and how this relates with—I would assume we're talking about Campbell Soup, and once you start producing tomatoes, then there's the canning of tomatoes, then there's the shipping of tomatoes. Is there anybody who can speak to us about how the aspects of produce and its various stages of production would be affected by this legislation?

**Mr Tom Wells:** As recently as this morning I was talking to the Ontario vegetable board and they feel confident that the produce produced by the farmer himself will be moved outside the act. That seems to be coming that way.

The other side of the scale is, though, the Campbell Soups, the Heinzes you're talking about, whether the production worker there will be outside the act as well or then the produce is in the field harvested and no place to go.

There's a very grave concern because in the fresh fruit market and in the tomato industry, peas, all the commodities, there's a very short production time, and if the production worker is allowed to go on strike at key times it's worse than blackmail, because you just destroy the farm industry as well. There's no payment; the whole thing falls apart. So the fruit canning industry is very much at risk here, and they're really worried about it.

**Mr Jackson:** I met with Ball Packaging representatives, and 50% of all the cans in Canada are produced right in my riding, and they have recently made a long-term arrangement with Campbell Soup to protect themselves, but they had to make mammoth concessions with Campbell Soup so that they didn't off their—



**Mr Wells:** I'm well aware of their concessions.

**Mr Jackson:** Okay. Well, I appreciate your comments. It's an area that I'm quite concerned about, and we're not getting much analysis which is helpful to—

**Mr Wells:** Our area is really concerned about that. There's no question the farmers themselves are really worried, and that's my specialty, so that's why—

**Mr Jackson:** If they ship the cans up from the States, pretty soon they'll start thinking they may as well put the tomatoes in them from the States, and that's—

**Mr Wells:** The product is available in the States right now to come to Canada.

**Mr Jackson:** It's not as good a quality product, but we'll hear from Mr Colasanti about all the good-quality products.

**Mr Hope:** Thanks for the presentation. Yes, I will be looking forward to the studies as I received all the little placards that you guys did. I got those in my hands. But I am looking interestedly at the study where you say you sent out 350 forms in July and received only 29 responses, and then 15 have indicated that investment of \$1.4 million will not be coming. I find that very interesting and I hope that you're reflecting, because in your presentation you made comments that the industrial sector is working with the APMA sector.

1550

**Mr McLean:** Yes, automotive parts.

**Mr Hope:** Are they part of this \$1.4 million of investment not being allocated?

**Mr McLean:** As I said earlier, Randy, the responses were really from small business. He was talking about individual business people, probably less than 30 people at the plant not making investments.

**Mr Hope:** Good. That's where I'm trying to focus the attention—let me express some viewpoints—because I know the presentation Union Gas did, and I have to ask you the question, if Bill 40 comes into play, will the office workers at Union Gas, who are treated appropriately, have good wages, good working conditions, good labour management relationship, are they going to go out and organize?

**Mr McLean:** I have no idea. I can't answer that.

**Mr Hope:** Okay.

**Mr McLean:** I don't work at Union Gas.

**Mr Hope:** Well, you used to and you know the work atmosphere there. Union Gas has always been praised on its worker-labour-management relationship, and to get more than 50% of the workers unhappy in that is very unlikely because management just doesn't tolerate it. They thrive on worker cooperation.

I'm still focusing on the 300 forms. I've been meeting with a number of small employers because they are very concerned about what they're reading out there, and I've always asked them the question, "How do you treat your employees?" I know all our employers in Kent and Chatham are not bad employers.

**Mr McLean:** No.

**Mr Hope:** There are good and non-unionized workplaces. These people are not going to run out and join a union for the simple fact Bill 40 is there. They join a union because they've been mistreated, and on that vote, it has to be over 50% of them are mad, to join a union. Is that not correct?

**Mr McLean:** I would think that people would join a union because they are dissatisfied with the treatment they're receiving.

**Mr Hope:** So they're looking for fairness and justice with joining a union?

**Mr McLean:** Yes, That's fine. They're probably looking for fair and just treatment.

**Mr Hope:** I'm looking at what you've put here. I'm on agriculture; I know Pat wants to get at some of the stuff. I've been talking to a number dealing with replacement workers, the labour relations and the whole question. Even Eaton's is a prime example where they went for months without a collective agreement. The workers never went on strike and there was a fair and balanced collective agreement that was put in place.

When I'm reading your presentation, I reflect back on my own community and the conversations I'm having, because I know about the \$1.4 million, why there's not investment there. It is because a lot of them are financially hurt and it's not because of wages; it's because of the economic environment and what's happening around free trade and other areas, and the energy cost is one.

**Mr McLean:** There's no doubt that there is probably much capital investment that has been deferred, perhaps even employment that's been deferred, because of the current economy. The specific question that was asked, though, was, "As a result of Bill 40 being introduced for public debate, have you deferred investment?" The answer was yes to the tune of \$1.4 million. That's all I can report to the committee.

**Mr Hayes:** Thank you for coming and making your presentation. There's a comment that you made on page 5, just the statement there, "What about those potential investors who are significantly smaller than a Ford or a General Motors or a Chrysler?" You're talking about the bigger corporations maybe being better off than the smaller operations, and I'm sure that in some cases—

**Mr McLean:** I'm not talking financially better off.

**Mr Hayes:** You're saying because they're already organized and it wouldn't create a problem. This is what you're saying.

**Mr McLean:** What I'm saying is they're probably less sensitive to this legislation than people who are making investment decisions that are not unionized now and are smaller.

**Mr Hayes:** Do you really feel that workers, even workers that are not organized now, should take lower wages, that they shouldn't get decent wages, decent working conditions and benefits? This is what we're talking about, giving workers a chance for those particular items, and when you start saying, "It's okay for the big guy but not for the smaller one," but—

**Mr McLean:** I'm not saying it's okay.

**Mr Hayes:** —the workers are no different at Ford than workers outside, for example, in a smaller place.

**Mr McLean:** Sure. All I'm saying with this is that the larger companies are probably less sensitive because they're already ingrained with what this legislation is putting forward, what the changes to the legislation are putting forward. As for whether they should endure a lower standard of living or lower wages, I think the primary thing is for us to get employment and compete globally. That's the primary goal. Nobody should be living under the poverty line, but I think there's a big difference between the average wage rate in Chatham and the poverty line.

There is some room to move. I think it should boil down to competition and retaining the work or getting the work, and that's the premise of this presentation. It really gets down to, is Bill 40 going to do anything to help us restimulate the Ontario economy and allow us to generate some capital to pay down the provincial debt or not?

I guess the best we could possibly get out of Bill 40 is, "It's not going to hurt us." We don't need, "It's not going to hurt us" legislation now, we need legislation that's going to help us.

**Mr Hayes:** I think the question was asked earlier. I think it was to another group that Randy asked the question: We talk about being competitive—

**Mr McLean:** Yes.

**Mr Hayes:** —and yet the chambers of commerce across this province have this big campaign going on to fight this particular piece of legislation. I'm wondering why you people didn't fight strong and hard against the free trade, against the high interest rates and against the GST and some of those other things, the inflated Canadian dollar, that have really caused us to lose a lot of jobs in this province, in this country for that matter?

**Mr McLean:** As for our position on the free trade agreement, I guess we should talk about the Canada-US free trade agreement. Overall, there is great benefit to opening up your market with 260 million people or 360 million, as it comes with the North American free trade agreement. Absolutely.

**Mr Offer:** I'd like to ask a question about a response that you gave to Mr Hayes, and it was in the area of you don't know that Bill 40 isn't going to hurt you.

It's interesting that we're hearing a number of people come in talking about the substantive aspects of the legislation, and also talking about what they think the bill is going to do. On a couple of occasions, the private sector and some groups there have undertaken an economic analysis which has been criticized by the government at every possible occasion, but it has not yet, on the other hand, come up with their own analysis to refute the findings one way or the other.

You said that you need a true consultation process that works. We're here in this committee right now. This bill has not gone, the Premier has not sent this bill out to the committee which he formed the day after this bill was introduced. Do you very much believe that there is the possibility of conducting an economic impact statement,

should it be done, and should it be done prior to this legislation coming into force?

**Mr McLean:** As for this piece of legislation, of course there should be an economic impact statement that's commissioned by the government. I have no idea how you would put forward a bill of this magnitude which, in our opinion, shifts the balance of power in a very delicate relationship, without looking at what the impact may be.

If we're going to shut down large plants and put thousands of people out of work and attempt to re-employ them with several other employers that are going to employ hundreds at a time, I think we'd better go out and ask those potential investors whether they are interested in coming to Ontario, and if so, will this impact on their decision. I don't know whether that's been done. I'm pretty sure it has not been done by the government. At least, I've never seen a report on it.

We've tried to present some local statistics—I'm sure the Ontario chamber is presenting more global statistics—but really it doesn't get down to something as narrow in scope as Bill 40 and the amendments to the Ontario Labour Relations Act. It really gets down to the economic welfare of this province and how are we going to continue to compete in a global marketplace.

I heard the previous presenter talk about the Caterpillar plant and how they should have justified why they left Canada. The basic employer-employee bond is really, "I will compensate you for some work that you do." At the end of the day, when the compensation is completed, if that worker refuses to supply the services, then why should that employer be encumbered by that decision? Why should they not be able to carry on their business in the way they choose even if the people who work there are not satisfied with the employer's conditions?

1600

**Mr Phillips:** I thank the chamber for its presentation. I have to tell you I'm frustrated, as I think you must be, because I think the die is cast on this. I happen to think it's going to have a fairly significant, negative impact on the economy. We already have record unemployment rates, record plant closures, and the government's made its mind up and it's going to proceed with it. We are like two solitudes without any opportunity to bridge the gap. I just get frustrated with that, as I think you will be.

My question, though, is that one thing that would be helpful to the committee would be specific businesses. That's what's been lacking in this debate, I think. There are very few specific businesses that will step forward and say, "If this goes forward, we won't do this or we won't do that." I think I understand why that is the case, but could you perhaps explain for myself why that is the case, or maybe you've got examples of specific businesses.

**Mr McLean:** In the first addendum to the presentation are some testimonials from Chatham business people who talk about their feelings regarding Bill 40, and they are employers in town who are small by any standards, but they are making investment decisions based on what Bill 40 is proposing. I think that is complemented by the 29 responses and the 15 negative responses about investment



that we've received, and they're still coming in. We will make copies available both to our MPP, Randy Hope, and also to the clerk of this committee.

**Mr Phillips:** I haven't seen the specifics. Thank you very much.

**The Chair:** Thank you to the Chatham and District Chamber of Commerce. You have made an important contribution to this process. We are pleased you were able to come here to Windsor. You should know that there were literally hundreds, well in excess of 1,000 people, who sought to appear during these hearings and not all of them could be accommodated. We have tried to make as representative a selection as possible and we're pleased that you were able to come.

**Mr McLean:** Thank you very much, Mr Chairman, and I hope that Mr Phillips is wrong. I hope that we have an opportunity to voice our views and that they will be heard.

**Mr Phillips:** They're heard; I'm just not sure we'll see change.

**The Chair:** We trust you'll keep in touch. You should know, and other persons participating, that Hansard transcripts of your presentation or any others are available to you by writing or calling your MPP's office or the clerk of the resources development committee. Those are free of charge, of course.

#### GREATER WINDSOR AND ESSEX COUNTY HOTEL AND MOTEL ASSOCIATION

**The Chair:** The next participant is the Greater Windsor and Essex County Hotel and Motel Association. Gentlemen, please seat yourselves, tell us your names and your titles, if any, with the association. We've got your written submission. That's been distributed and will form an exhibit. Tell us what you will.

**Mr Zarco Vucinic:** My name is Zarco Vucinic. I'm president of Duffy's Tavern Amherstburg Ltd in Amherstburg. I am in business for the last 33 years. I employ between 40 and 50 people who are part-time mostly.

**Mr Charles Kobryn:** My name is Charlie Kobryn. I'm a tavern owner in Windsor. I've been in business for 10 years. I employ about 12 people at my establishment.

**The Chair:** You can tell us the name of your place, if you want. We're here overnight.

**Mr Kobryn:** Are you? Okay.

**Ms Murdock:** No, no. We're going to my brother's bar.

**Mr Kobryn:** The name of my establishment is Boomers Border Bar. It's on the bottom of the sheet. We call it an urban entertainment lounge.

**The Chair:** Go ahead.

**Mr Kobryn:** Our presentation today is on behalf of the Greater Windsor and Essex County Hotel and Motel Association. We are a hospitality trade association with 75 members which includes taverns, lounges, restaurants and accommodation properties.

We in the Windsor and Essex county area are familiar with unions in large business, which probably works fairly well with employee, management and owners. We, as

small business, feel the proposed revision to the labour act should be to provide meaningful ways to help labour and management to work out their differences, and not to enhance the role of unions in our society and to give the organized union movement new areas for membership.

We, as small businesses, are fearful that our costs will skyrocket. This past 18 months has taken its toll with the GST, employer health tax, higher land and business tax, minimum wage increase, especially the student wage, and higher product cost. We feel control over our businesses will shrink, and if a strike occurs we are closed. A closure in the hospitality industry of any sort could mean the end.

It is our belief that any legislation must be for the good of all parties involved. We believe there should be better access of information for both employees and small employers in assisting them to deal with labour issues and the labour act. We recommend that the proposed legislation be withdrawn and bring in changes necessary to get Windsor and Essex county working again.

**The Chair:** Thank you. We've got time for questions and some exchanges.

**Mr Offer:** Thank you for your presentation. We've had some presentations throughout our hearings from others involved in the hospitality industry where there is a degree of unionization, and that hasn't been the issue, I think, as far as they are concerned. What has been the issue is that if people do wish to join or form a union, certainly they should be given the right to do so, but they should have a free choice, clearly, without any coercion or intimidation.

I guess, as an opening, it is whether you agree with that, and the reason I ask the question, just to carry on if I might, is that it seems that as a small business you're fearful of unionization itself. What we're hearing is that people are coming and saying: "Listen, if people want to organize, that's their choice. Let them be able to do so if they wish, free from any intimidation from any side." I'd like to get your thoughts on that.

**Mr Kobryn:** Just as long as it's fair and they understand both sides, of being in a union and not being in a union. Just as long as, I guess, both sides can present themselves properly. Of course, myself being non-union, I guess I would say I treat my employees pretty good. I can't say that all owners of establishments in our industry would or wouldn't. I guess it would be up to them and their employees, just as long as both of them can express themselves and they can decide on a free basis where they aren't pressured one way or the other.

**Mr Offer:** It's interesting; I think that there are a lot of people who would say that is a response that is totally reasonable, that the issue here is not whether unionization is good or bad, whether it should be increased or decreased, but rather, if there is to be a drive, let the men and women in the workplace make up their mind and give them the opportunity. It seems that certainly is exactly what you've said.

**Mr Kobryn:** Sure. One problem in the hospitality business is the part-time people, and it will be important

for them to get all the proper issues and the proper information about joining unions or not joining.

**Mr Phillips:** I appreciate your presentation. There is the line in there, "We, as small businesses, are fearful that our costs will skyrocket." Would the result be that they would skyrocket because you would be required to pay unfairly high wages, or why would they skyrocket? I think someone who may be advocating the bill would say, "Well, if you're not paying fair wages to your employees, then they should have some increased access to unionization."

1610

**Mr Kobryn:** I guess one way they would skyrocket is—I'm just saying an instance because I'm dealing in this industry—if we had a cook, his job would be basically to cook, and I think if he were a union member, the union would say, "You cook." Now say I wanted him to go and put a couple of chairs out, to straighten some tables around in the dining room, he might tell me: "I'm sorry, I'm just cooking. You'll have to get somebody else."

In the afternoon between 3 and 4, when obviously he's not cooking that much, I would have to hire somebody else to maybe straighten my dining room around, or maybe change a lightbulb in the kitchen, or maybe change the draft beer kegs, or maybe carry a couple of cases of beer to the bartender, or maybe go through the wine to see if we're short of any wine for tonight's dinners, and such. In the hospitality business, there's so many different sources of jobs that, as owners, we feel a lot of our employees can do many jobs, and maybe if there was a union, we would have to hire more people to do these different jobs.

**Mr Phillips:** So it isn't the remuneration, the salary or the hourly rate that necessarily would go up; it's your flexibility to manage your business.

**Mr Kobryn:** Also, if we do get into a union situation, we would probably have to have somebody to basically run between the management and the union in our place of work.

**The Chair:** Mr Jackson?

**Mr Jackson:** I have no questions.

**Mr Dadamo:** I may have missed it, I'm sorry. What kind of relationship do you feel that you have with the employees now?

**Mr Vucinic:** My employees are the same as my family. I associate with them. I joke with them. I play with them. I bowl with them. We're always together. I have to say this, that in 32 years I've fired two people, and that was for stealing or doing something that wasn't proper.

**Mr Dadamo:** How many employees do you have, by the way?

**Mr Vucinic:** Between 40 and 50. It depends on the season. This year we have much less than last year.

**Mr Dadamo:** If they chose to, would you deny them participation in starting a union?

**Mr Vucinic:** If they have a reason, I couldn't deny them. Let them have it.

**Mr Dadamo:** I guess we have Charles's point of view on what frightens him about Bill 40. What sort of offsets for you?

**Mr Vucinic:** That's the same thing with me, maybe more in my operation than in Charles's because I would have to have somebody who would represent the people in motels, somebody in the tavern. As I say many times to them, you know when we have an affair to serve the public, everybody has to be there to serve them properly, because if you don't drink a glass of beer today, you won't drink it tomorrow, or if you don't rent the room today, you won't rent it tomorrow. So everybody knows that and everybody cooperates. We never have no problem, so far.

**Mr Dadamo:** The both of you seem to have good, strong, nice relationships with your employees, and that's nice.

**Mr Vucinic:** That's the only way.

**Mr Dadamo:** Okay, that's fine, but that's not the way it is throughout the land and throughout the province of Ontario. If that's the way it was, we wouldn't have to strengthen the laws that we have now that have not changed in the last 15 or 20 years. I applaud you for the work that you do with your employees in getting along, but we need to make some changes. I hope you appreciate that.

**Mr Kobryn:** I think that's what we have in our proposal, that we feel there should be some changes, but changes that would be fair for everybody and not giving one person more power than the other person.

**Ms Murdock:** I lived in Windsor for six and a half years while I attended Windsor doing commerce and law, and put myself through school basically working in a bar part-time. I was a part-time employee, and my brother subsequently bought that bar, which is the Bridge Tavern on University Avenue.

**Mr Kobryn:** That's a good one. You guys will like that one.

**Ms Murdock:** It was work actually that I enjoyed. I had never done it before, but it was work that I actually enjoyed quite a lot. Part of the reason I think we did—again, a small establishment; we only had about four full-timers and then a whole raft of part-timers to cover the odd hours—was because the three owners would sit us down on off-hours just to discuss what kinds of things we thought would improve the business.

I remember one time we even got started talking about pricing. This would have been in the 1980s. The government had just increased the beer prices so of course we had to discuss how much we were going to increase the beer, whether or not draft was going to 95 cents or something, because then that would mean that our tips were severely affected, because usually people give you the balance of the bill.

I mean we understand all of that kind of thing, but what I'm trying to say is that when we did this, we had input into the operation. The final decision rested with management of course, but it listened to our views, and implemented many of the ideas. I'm wondering, given your good relationship with your staff, if that's how you operate yourselves, both of you.

**Mr Kobryn:** Yes, especially my full-time employees, because they have a better look over the operation rather



than the part-time. Out of my 12 people, I guess four of my employees are full-time. I respect their judgement, because they're there between 35 and 40 hours a week, so the full-time employees more than the part-time.

**Mr Vucinic:** I have about 40 on a full-time basis, but in the summertime, they will work more because we are busier. In the wintertime, they take more off. If they go for a vacation, they'll take a month off and somebody is going to be substituting for them and so on. They cooperate very well so there's no—

**Ms Murdock:** I know that you said in response to an earlier question that they're happy generally, and I think a previous presenter mentioned—and I noticed, Mr Vucinic, that you have been sitting here all afternoon—that happy employees generally are productive employees, and also if they're happy and contented with their workplace, they don't go off and try to form a union. Would you agree with that?

**Mr Vucinic:** What could I do? My operation is an open book. I'll tell you why. For example, 25 years ago, I used to sell a steak for \$3.25 when an employee of Allied Chemicals, which is the main industry in the town of Amherstburg, had \$3.25 an hour. Today, the worker at Allied Chemicals has \$25 an hour. I still sell steak for \$12.50. How do you like that?

Our employees know what's going on. As soon as they don't get the right price or we increase just maybe because of the taxes, right away they're complaining. I just tell them, "See what I do," and they understand that, but they never complain about the pay. I had only one girl who asked me for more money as a receptionist because I put the load on her to run the motel. But then she asked Journey's End to work for them and they offered her less than I paid her, and she would have to travel all the way to Windsor, so she calmed down then.

**Ms Murdock:** In either of your organizations, has there ever been any indication that they wanted to join a union or made a move to organize? With these amendments, would you expect that to change?

**Mr Vucinic:** I don't think it would change their minds, but I don't know.

**Mr Kobryn:** I really couldn't speak for my staff. As long as they have the proper knowledge of what a union is and how it would affect the workplace, for and against, I guess it would be something that they would have to decide on.

**Mr Vucinic:** If I may say just this, there are certain rules when you have a union in your place, and I don't think my people would go for those rules. They can have a cigarette when they want to, they can sit down and have a coffee when they want to, but when it's work, they work. I don't eat when I'm supposed to; I eat when I have a chance. So they do the same thing.

1620

**Ms Murdock:** I remember the business well, and I want to thank you very much for the time you've taken to come down and do this.

**Mr Kobryn:** Just one other point that I'd like to say is that most of our employees are on minimum wage, but

probably around 75% of them are also on tips. So their wages will vary by the time of the year, the day of the week, that kind of thing. Their wages do go up and down all the time, so that's something else to look at too.

**The Chair:** Gentlemen, thank you for appearing here today on behalf of the Windsor-Essex county hotel and motel association. Mr Kobryn and Mr Vucinic, you have made a valuable contribution. I trust that your lobbying efforts will extend beyond this into areas, for instance, like the opportunity to buy beer and spirits at wholesale prices, so that you can be competitive, especially with cross-border taverns; the opportunity, for instance, to set your own pricing without inappropriate restrictions, so that once again you can be competitive. I encourage you to do that, and I trust that you will.

Thank you very much. Good luck in your businesses, be it Boomers Border Bar or Duffy's Tavern and motel. As Chair, it would probably be inappropriate for me to go to either of those places, but I'm sure the committee will make every effort to visit them at length.

**Mr Vucinic:** Let us know when you come down.

#### COLASANTI FARMS LTD

**The Chair:** The next participants are from Colasanti Farms. Gentlemen, please seat yourselves and tell us your names and titles, if any. We've got your written submission and that's part of the record; it's an exhibit now. Tell us what you will. Please leave some time for questions.

**Mr Joe Colasanti:** I'm Joe Colasanti, the president of Colasanti Farms Ltd. We have a greenhouse operation, a tourist attraction. We have a restaurant. We sell wicker hard goods and the whole works, animals, probably what you call entertainment farming.

This is my son, Terry, and we're here today specifically to give our views and who's responsible for these new labour laws. I don't know about you, but reading them over, I don't see one thing in here that says an employee is going to have better working conditions, better air-conditioning, better hours or better anything. All it says to me is that someone up on top is going to be able to run the country, okay?

I personally feel that we do need unions in this country. I'm not trying to say we have to get rid of unions. There are probably still employers who need unions to keep an eye on what's going on, but as far as I'm concerned, if this new legislation goes through, I think you're going to see, as we've got in the brief, a lot of companies decide to close up and quit fighting, because this militancy that we're going into with this new labour reform law, I think is going to hurt a lot of people. Again I'm not here to say we don't want unions. There are places that need them and there are places that can do without. But I think we're going a little bit too far. Terry wants to go.

**Mr Terry Colasanti:** I'm Terry Colasanti. The brief that we've written is our interpretation of Bill 40 and how we think businesses like ours would react to it. It's based on the information that we've received so far, whether our information that we've received is correct or whether we've interpreted it wrong ourselves. I offer no apologies

for that, but it's based on our honest understanding of what we've read. Would you like me to read the brief?

**The Chair:** You can read all of it or a part of it, or highlight it, as you wish. Go ahead, sir.

**Mr Terry Colasanti:** The Colasanti family operates a fourth-generation company. All four generations are alive and still contributing to our success. We are a hardworking, determined family. Even during this recession, the dedication of our family and employees has enabled us to expand.

Colasanti exports to the United States are still growing. We were about to undertake a 15-year capital investment. Bill 40 will jeopardize our ability to produce and deliver on time. Bill 40 will have a destructive effect on our cash flow.

Colasanti Farms and several other horticultural farms are going to protect their American export business. The only method of protection—we're scared because of how we've interpreted Bill 40, and it's an honest approach I'm trying to give you now—is to buy American land, to build American greenhouses and to hire American workers. I know how my grandfather felt when he was struggling with the decision to leave Italy.

I would also like to make a comment on student wages. As any NDP politician knows, it's a cruel, competitive world. Any school teacher will tell you how tough his or her job is. All teenagers require training and orientation to the working world. I hope I have this right, but Bob White told University of Windsor students that Canada does not have to be competitive, and I don't think that any of us actually believe that.

Many kids entering the job market have severe motivational problems, and these are some of the common problems we face on a daily basis: "I wanted a job but I didn't know I had to work." "How many pieces of chicken are in a six-piece dinner?" We have had attempts to sell drugs at work. We have kids calling in sick, telling their parents that they're coming to work and then they don't show up at all. The list is really endless, and these are all good kids.

**Mr Joe Colasanti:** I just want to add to that. Just recently we were told that the minimum wage for students is going up to \$5.90 an hour. I have a really strong fear of what's going to happen when this does happen. You're talking \$5.90 for students and \$6.30 for adults. Our company does not have a problem with—had the adult minimum wage gone up and left the student wage—it should have been at \$4.50 an hour.

Now you may say we're crazy, but how many of you people own your own businesses, and have you ever had to work a full day with 30 students and see the things that go on, the things that happen? They're all good kids; they're not stupid. It's just that they haven't had the age under their belt to use some common sense. I would rather have seen the adult wage go up higher and the student wage stay where it should have been, at \$4.50.

What's going to happen is employers will cut back on hiring students, okay? You say, "Okay, that's fine, they're going to hire an adult," but the student gets his teaching at school and he gets some stuff taught to him at home.

For example, the father says, "Hey, I want you out there at 9 o'clock tomorrow morning to cut the grass." So

at 9 o'clock the kid's still in bed. He says, "Oh come on, Dad, let me sleep in a half-hour." Fine, so he sleeps a half-hour, but if that kid had a chance to have a job, he would say: "Look, Dad, get me out of bed. I've got to be at work at 8 tomorrow morning or I'm going to have my ass kicked." Okay? So I'm afraid these students are going to lose the opportunity to learn what responsibility is all about.

We're not sitting here bashing one side or the other. We're trying to be fair, and I think with the students they put the raise of pay in the wrong spot. That's our personal opinion, the Colasantis. Go ahead.

**Mr Terry Colasanti:** Another question we have about Bill 40—and again it's based on information that we've received on it and on our interpretation—is we don't expect any adults to live on \$6.35 an hour. It's not a fair wage by any means. We would support an issue of pensions, for companies to give mandatory pensions to people, and we would support dental and prescription plans. These are issues that we think the NDP government would be successful at addressing and putting into place without having to pass what we call pro-union legislation, not pro-labour legislation. That's an honest interpretation we have.

1630

**Mr Joe Colasanti:** We've got one here. Gordon Wilson made a comment: "Businesses which do not like the new labour reform should get out of Ontario." I think that's really great for a—I don't know; whatever he is—to come out and tell the business people in Ontario.

I don't know why guys like Bob White think they can use their militancy to get after the employer. If we, as employers, are going to be beat over the head by these new labour reform laws, who the heck's going to go out and spend the money and build the buildings and add on to the buildings and hire more help? We just hired two new cooks last week, and we're going to be hiring four or five new people to work in our snack bar. We're just putting up a \$10,000 building. We're going to keep adding; we're not going backwards. But if this thing goes through, we're going to be afraid to spend the money, because you're going to be in fear. Every morning you get out of bed and wonder, "What are they going to do to us today?"

These guys in the back think it's really funny. I don't see any business people back here, only union fellows. They think it's really smart and really funny, but you get rid of the people who've got the guts to get out and do the pushing and the driving and the building, and you won't have anything left in this country. You wonder why Windsor's lost half its factories; there's part of the reason. We've got a rotten attitude in this area, and we need some straightening up. If you let this thing go through, I'm telling you—we're not here to threaten. We're just telling you how we feel.

**Mr Terry Colasanti:** We're scared. We're honestly scared.

In our business we make some trips to Europe. The minimum greenhouse wage in Holland is \$17 per hour; their take-home pay is \$7 per hour. Gasoline prices are double and living expenses are much higher. At \$17 an hour, eating meat is considered a luxury in a country that



we call civilized; it's a luxury, when you go to these people's homes and visit with them. I don't particularly want to live like a European, based on what I've seen, how people live. Even at these wages, the government consumes so much of their money. There's still people living on the streets, and a lot of people living on the streets, because we've seen it. It scares the hell out of us.

**Mr Hayes:** Mr Colasanti, Terry and Joe, I'd like to really compliment you on what you have done with your businesses. I've been there several times. Especially your apple cider and your fresh doughnuts.

**Mr Joe Colasanti:** Thank you. I should have brought some.

**Mr Hayes:** You are considered as a farmer out there right now or a farm operation, are you not?

**Mr Terry Colasanti:** That's a good question. We've got that debate going right now with the Ministry of Labour. Three weeks ago we were split into different categories, and a week ago it was reversed, so it's in debate right now. We just want to know, we just want to abide by the rules; please let us know what category we're in.

**Mr Hayes:** I don't know that for sure, but you are involved in the horticulture industry, though.

**Mr Terry Colasanti:** Yes.

**Mr Hayes:** That falls within agriculture. You are aware that the Minister of Agriculture and Food and the Minister of Labour have been working together; put the task force together, as a matter of fact. Actually, there was a worker representative and a representative from the Ontario Federation of Agriculture and others on this particular committee. They did make some recommendations to the government. One suggestion, of course, was to deal with the agricultural industry separately, and it appears there's the possibility of that coming through.

One of the recommendations also was that there would be a prohibition of the right to strike or lockout, substituting a dispute-resolution process that would emphasize a preference for negotiated settlements between parties, for example. There were some recommendations, and it certainly appears that some of these will be accepted. You would not be affected by all of this piece of legislation, is what I'm saying to you.

**Mr Joe Colasanti:** That's fine, but I think we're speaking on behalf of more than just agriculture, because we do have a retail business as well. We have a restaurant now. We're speaking on not just farming. We're not here just to say, "We, as farmers, want to be excluded," or whatever. We're mainly concerned about what will happen to any business if this goes through.

**Mr Hayes:** I'm sure. On the comments about the two labour leaders, I would say that for them to make that statement and just that statement—I'm sure there must have been more to that particular statement if we read the whole thing. You talk about being competitive, that Bob White says we don't have to be competitive. What he's probably saying is that to be competitive, you don't have to cut people's wages or have people work under worsened working conditions, for example.

You know what's happened to the farmers for many years: "Be competitive, be more productive and be more efficient." Of course the banks gave them lots of money, they went out and bought more land and more equipment, and you know what happened. The interest rates went up and the prices went down. That stuff has a greater effect than what this bill would have on you or any other business in this province.

**Mr Hope:** Joe and Terry, it's been a family business for four generations. You ought to be commended for that. It's not too often you see four generations go through, especially in the horticultural sector. Coming from Chatham, I'm very familiar with your facility, because it's my wife's favourite spot to get plants.

In your comments you focused on the minimum wage, and you talked about what you knew to the best of your ability. I take it that it's through reading newspapers and stuff like that.

**Mr Joe Colasanti:** Yes, that's where we get it.

**Mr Hope:** I want to ask you questions dealing specifically with your workplace and your workers. Do you thrive on cooperation with your workers, talking about what's going on? Because you work in a atmosphere dealing more with the general public. Isn't that one of your major goals, to have good labour rapport? What is the current status? Do you have good labour relations?

**Mr Terry Colasanti:** We have good labour relations. We have weekly meetings with departments. We encourage and promote daily input of suggestions on how we can improve working conditions.

**Mr Hope:** From all those meetings and the conversations you're having with your employees—you can sense if you're getting people mad at you; I guess everybody can. Do you feel over 50% of your workforce or even 20% of your workforce is mad at you, as employers?

**Mr Joe Colasanti:** Yes, there's probably a few in there that no matter what you did, you couldn't satisfy them. Three, four.

**Mr Terry Colasanti:** Maybe 5% of the people who work for us might be angry with us at any time.

**Mr Joe Colasanti:** I want to throw a comment in here, and I know some people are going to think I'm crazy. We still haven't got it in writing, but we've been paying our employees, the greenhouse workers, the farm workers, all of them, five paid holidays, on our own. We thought: "We'd like to make Colasanti's a nice place to work. Let's give the five paid holidays." We had an employee who works on the till come in one day and say: "Hey, you're supposed to pay me eight paid holidays. The labour law says so." We checked it out and it still hasn't been cleared yet, but we're paying eight paid holidays. We're paying everybody eight paid holidays. The ones who work in the soil, in the plants, do not go under that legislation, but we're doing it.

1640

But now we've got an attitude problem. We have some employees who are against that and some who are for it; more against. They're having their problems among themselves: "Why the heck did you go and do this to us?"

Because, in turn, we've got a few rights left—not very many—but we used to give them free coffee and doughnuts for the first coffee break. When a holiday came up, if the holiday was on Monday and the person said, "I've got to go up north. Do you guys mind if we come back on Wednesday?" they came back on Wednesday and still got their holiday pay. We've got people who've been working less than two years who are getting four and five weeks' vacation. We thought we would try and make it a family business. Now this attitude has come in and I don't know how to talk to some people any more.

**Mr Terry Colasanti:** What he's saying is that we said: "Eight holidays? We didn't know it was eight. We apologize. We're going to go eight holidays." Then we talked to the labour board and they said, "You don't have to pay any." It's irrelevant whether we have to or not. We want to do it because we want to work with everybody. Then people come to us and say, "See, we won, we beat you."

**Mr Joe Colasanti:** Where the hell does that attitude come from?

**Mr Terry Colasanti:** "That's not the relationship we want to have with you. That's not how we want things to work. We don't want you to beat us and we don't want to beat you. We want to work together. We want to bring in more customers. We want to bring Americans into Canada to spend their money. How can we do that? Let's not worry about who's going to beat who."

**Mr Joe Colasanti:** We take the attitude that we can't do the place on our own. We need the people who are working for us. Without them we can't survive, and without us they can't survive. We need each other, and we thought we had that working condition until a few weeks ago.

**The Chair:** Mr Offer and Mr Phillips want to ask you questions.

**Mr Offer:** Thank you for your presentation. You've brought forward some very important points which I hope to address in the time allotted. The first deals with your type of business. Apparently it's a variety of things that you provide, some of which may be under this legislation and some of which may not, but if I heard you correctly, you've asked for that clarification from the ministry and haven't received any information.

**Mr Joe Colasanti:** They won't give it to us in writing.

**Mr Terry Colasanti:** It's coming, but it's in negotiation, from what I understand. We expect to receive it soon, but it has been a few weeks.

**Mr Offer:** The second point I want to bring forward is a point Mr Hayes brought up: the agricultural aspect, the agricultural and horticultural nature of the business, no matter where you're going.

The difficulty we have in the legislation is that if there is going to be any change dealing with agricultural or horticultural operations, it's going to be done by regulation. What that means is that the Minister of Labour will decide what is to be done; it will be outside the legislative process, without any opportunity for individuals such as yourselves to comment directly on what it means to them in their operation. I would like to get your comment whether

changes in the field of agriculture, in any way, should be made without having the opportunity such as you have today to comment.

**Mr Joe Colasanti:** I'm going to make a comment about the Minister of Labour, Bob Mackenzie. I drove 200 miles, or however far it is from here to Hamilton, to listen to him speak at a breakfast meeting one morning. There were over 200 farmers in that room; greenhouse growers, farmers, whatever. You talk about listening—and I hope you people are listening today; I hope we're not just up here wasting our time and your time.

This man got up and said, "I'm going to speak for 10 minutes, I'm going to take two questions and I'm leaving," and that's exactly what he did. I'll bet you dollars to doughnuts he went back to Toronto and said to his superiors, "I went out to the country and I asked for questions and there were only a couple of people in the crowd who said anything." That's exactly what he did, God help me. He took two questions. The hands were up but they had to go down because he picked up his books and he left.

**Mr Terry Colasanti:** That's what scares us.

**Mr Joe Colasanti:** We're talking from personal experience. It scares the hell out of us. It's not a democratic country any more, if this goes through.

**Mr Terry Colasanti:** Before you change legislation, you have to know the financial impact. You have to know what's going to happen. You've got to ask business; you've got to ask labour. It has to be a two-way event. Not two questions and "Thank you, have a nice day."

**Mr Offer:** Mr Phillips has a question, but I want to thank you very much for that response. I think that brings it right home to the people who are running businesses who want to share their concerns with respect to this legislation—not necessarily opposed to it, but want to share concerns about it.

**Mr Joe Colasanti:** Yes, we want to be heard. We don't just want to make a presentation and: "Thanks a lot. That was really nice. We'll see you again."

**Mr Phillips:** I appreciate very much your presentation. I used to be, in the old days, a business person like yourself. I started up two companies and had a payroll probably of 200 people. I don't think many people understand that, at least in my business, periodically the banking company would say: "We want more collateral from you. We want a bigger mortgage on your house." So my employees would head home and I'd be down at the bank putting a bigger mortgage on my house to meet the payroll.

This is the real world. You are the real world. In many respects, if we look at the future of Canada, it depends on families like yourselves figuring out an opportunity and then taking some risk. I don't want to know about your personal finances, but I'll bet the Colasanti family probably has a lot at stake in this thing.

**Mr Joe Colasanti:** Yes.

**Mr Phillips:** This is the real world. Your employees can go home and you will have to—as I say, if you take a mortgage out to build the new whatever you're going to build, you're going to have to pay for that mortgage. I very



much appreciate it. I'm repeating myself, but if we look ahead at who's going to create the jobs in this province and this country, it'll be the Colasanti groups that will.

In your brief you suggested that you are actually considering at least getting a beachhead in the US. Is that real? Would your family, your corporation, whatever it is, actually consider opening something in the US and is that a viable proposition for replacing some of the work you do here?

**Mr Terry Colasanti:** We would not leave Canada, but we are building a solid export business. Our American customers would not be very forgiving if we could not deliver, if something prevented the delivery of our product. They would not forgive us, they would not give us a second chance. Is it viable? Yes, it is. It is viable. It would be the southern United States and it would strictly be a production facility, not retail or any other.

**Mr Joe Colasanti:** We have a fellow not too far from us who has gone to New Mexico, looked at greenhouses in New Mexico to do his production—you'll see in the brief there—someone who last year hired 30 or 40 students again hired six or whatever.

We still think we live in the best country in the world. We don't want to leave. We're not just saying this to make it sound like, "If you don't give me this I'll do that." No, we're sincere in what we're talking about. We employ 95 full- and part-time people. Our payroll is \$800,000. Next year it will probably be \$1 million. We're going forward. Our turnover is \$3 million a year and it's climbing. Our attendance this year, the first six months, was 300,000 people, 50,000 more than last year, and it's getting higher and higher. We're bringing people in from all over the country. We like what we're doing. We like our country. But we still want to have something to say about our business.

1650

**Mr Tilson:** The concern I have, as I sit and listen to you speak, is that if the Colasantis and others like you leave or go under for any number of reasons for which you are placing a great deal of concern with respect to this particular piece of legislation, we're all going to be in very deep trouble, I'm certain if this legislation carries, and probably it substantially will. They have the majority. They can do as they like. The union leaders of course are probably going to claim a lot of credit as well for influencing the three Bobs. The concern I have, and the issue you're talking about, is what about the workers who really don't have that much influence as far as what's happening? I think the message I've appreciated the most from you is that of attitude.

**Mr Joe Colasanti:** That's our most serious problem, the attitude. "I don't give a damn."

**Mr Tilson:** The "us" and "them": The very simple examples that you're giving seem to be widening, even down to the fact that you've got to negotiate with the Minister of Labour to get some information. There is the whole "us" and "them" attitude, as opposed to trying to solve all the bankruptcies, the unemployment and the layoffs. Unemployment, currently, nationally I think is 11.6%. I don't know what it is here in Windsor.

**Mr Joe Colasanti:** Twelve per cent, I think; something like that.

**Mr Tilson:** That's certainly higher than it is nationally, and it is certainly higher than it is in Toronto. This labour bill seems to be their main economic platform to solve all these concerns. This seems to be their main concern.

**Mr Joe Colasanti:** It's not going to solve anything.

**Mr Tilson:** That's the message I concur with. There doesn't seem to be any specific economic plan to help the general economy to create jobs, to avoid bankruptcies, to avoid the moving of companies to the United States and other such places, other provinces. I certainly appreciate your coming to this committee and giving us your thoughts, because I think you've put your finger on the very issue, and that is the attitude between management and union. By this bill it will broaden substantially.

**Mr Joe Colasanti:** I probably would have felt better had there been at least one or two things that said the employees would get better pension plans, but there's nothing. All this says is union, union, union, right down from top to bottom. That's what really bothers me. If this goes through, we just have—you get up in the morning and wonder who is going to be standing at the gate, blocking it off tomorrow morning. We do have a place for unions, but we have to work together.

There's a news article someplace that talks about militancy. Bob White is going to push his militancy to run this country. He's going to kill us. It scares the hell out of me, whether you guys want to believe it or what; it scares the hell out of me.

Then I listen to Bob Mackenzie talk. It's like the Gestapo, "I'm going to do this, that, and I'm leaving." Why did you waste our time? I drove 200 miles for nothing. I could have stayed home and accomplished something. We're looking at what Russia just got out of. I'm talking from the heart. Those are my feelings.

**The Chair:** Thank you to Messrs Colasanti, father and son. We appreciate you coming here this afternoon and sharing your views with us. You've obviously had the attention of the committee. You provoked questions and responses from all members of the committee and you've made a valuable contribution.

**Mr Joe Colasanti:** We appreciate the opportunity to be here.

**Mr Ferguson:** Mr Chair, I don't mind being criticized or hearing anybody being criticized, but it bothers me when they're not here to at least explain. For the information of the delegation, the minister was invited to that meeting on very short notice. He explained to the organizers of that meeting that it was an extremely bad day already, but that he would certainly try to fit it in—

**Mr Tilson:** You got another guy with a bad day.

**Mr Ferguson:** After fitting it in—please, Mr Tilson, bear with me. You might learn something here, David.

After attending the meeting, it was the organizer of the event who suggested that would be appropriate for Mr Mackenzie to give a 10-minute talk and take a couple of questions. Because of the timing and the normal time lines that group functions under for a breakfast meeting—it was a breakfast meeting before most people started their work-

day—the organizer of the event told the minister that there would be time for two questions. That's how that shook down. It wasn't the minister who decided the arrangements and put the event together. He was there on invitation only and he was working within the guidelines suggested to him.

**Mr Joe Colasanti:** I'd just like to add to that. His speech was a speech that said, "We're going to do this and we're going to do that and we're going to do the other thing." It didn't refer to anything about, "What would you guys like us to do?" So we'll make it even.

**Mr Ferguson:** I think his speech announced that the task force on agriculture would be formed to examine all the issues that are out in the community.

**Mr Offer:** I'm a little concerned about this last little bit of exchange. I think what we have is individuals who have come before this committee and they want to share with us what their position is, what their concerns are and the reasons why. I think they've done that very effectively. It doesn't matter to me how you transport some notes between your side and the ministry. These individuals, these people, have come forward and spoken about what this bill means to them. The very least one can do is to listen long and hard about the feeling they've brought to this committee, and I thank you very much for doing it.

**Mr Tilson:** I think we have just seen an example of what these people are trying to say about their frustrations in dealing with the whole process. We've just seen Mr Ferguson come forward, "You're going to do it our way or you're not going to do it."

**Mr Joe Colasanti:** Exactly, and I'll tell you—

**Mr Tilson:** That's exactly what we've just seen at this committee.

**The Chair:** Thank you. Mr Hayes, did you want to initiate another round?

**Mr Hayes:** Just very briefly: There was a comment and a feeling here, and I think it's only fair that Mr Ferguson was able to clarify that. I think Joe has accepted that. As far as talking to people is concerned, we're being told we're not consulting. Government has talked to over 300 groups representing business, labour, unorganized workers, women, immigrants, chambers of commerce and all these different groups. There were recommendations. They listened to the people, responded, and we've made over 20 changes to the first proposals, and 10 of the changes are—

**Mr Joe Colasanti:** I appreciate that.

**Mr Tilson:** The first proposal stank. What are you talking about?

**Mr Hayes:** Is that so? I know what I'm talking about.

**Mr Tilson:** None of the first proposals were any good.

**The Chair:** Go ahead, Mr Hayes.

**Mr Hayes:** They were changed, right? So for members of the opposition to say that we haven't consulted—

Interjections.

**Mr Hayes:** It is totally nonsense for them to make that and it's an unfair remark.

Interjections.

**Mr Joe Colasanti:** Hang on. We didn't come here to start a fight today.

**The Chair:** Mr Jackson.

Interjections.

**The Chair:** Go ahead, Mr Jackson.

**Mr Jackson:** I think what the deputants are trying to suggest about the consultation process is that the Bob Rae government has consulted like a bad employer negotiates, and you measure it entirely by the amount of time you take, but not by the ground you gain. I'm just going to remind Mr Hayes that in pure collective bargaining, compromises are made and there are wins for everybody in the best interest of jobs in this province. That's what—

**Mr Hayes:** I don't need an education from you, Cam. I've been on negotiations.

**Mr Jackson:** Well, so have I, and I've been negotiating for 18 years in this province. The point I'm trying to stress is that when I hear unions rightly accuse employers of just spinning their wheels and wasting time and calling it meaningful bargaining, it's only fair when employer's groups come forward and say, "Yes, you've taken a lot of time." The unions are upset that you've taken so damn much time. But there's been no movement and no progress and that's their point. You are consulting like a bad employer bargains, and that's what you're doing. Don't try to call it what it isn't.

**The Chair:** Thank you. Mr Phillips.

**Mr Phillips:** I thought we had concluded, but Mr Hayes has raised a couple of points that I must get on the record. When he talks about having made changes in the proposal, let's be clear that the proposal was totally one-sided, and the changes that have been made were modest backoffs from a totally one-sided proposal. The bill we have before us right now has zero in it for the employer's side of it. It is all one-sided. It is unusual in the extreme to see changes to the Labour Relations Act that have absolutely nothing for one side and everything for the other side. I don't buy at all that the government has backed off on the bill. I don't buy that there was consultation.

We, the elected officials, the elected people in this province, never saw the bill until the middle of June. We had very little time to debate it and then—this is kind of Queen's Park jargon, I'm sorry to say, but there were rule changes forced through that will guarantee that this bill is passed, finished, fait accompli, by the middle of October. The thing is being rammed through.

You talk about consultation, I don't buy it. There's never been a major bill, ever, in the province of Ontario that has gone from first reading in the month of June to final third reading in the month of October, in that short a period of time. It is being rammed through and I won't accept that this has been the subject of broad consultations.

**The Chair:** Thank you. That completes that matter. Joe Colasanti and Terry Colasanti, once again the committee thanks you for coming here today. We appreciate your input. Take care. Ms Murdock, on another matter.

**Ms Murdock:** Yes. Buzz Hargrove mentioned a study done by the auto parts manufacturing industry, and I got a



copy of it and I would like to submit it so that all the members of the committee can read it.

**The Chair:** To be made an exhibit?

**Ms Murdock:** If I may.

**The Chair:** Fine. The clerk will photocopy that, distribute it and have it made an exhibit. Any other matters?

Thank you. We'll return here at 6:30. The room will be secured.

The committee recessed at 1702.

## EVENING SITTING

The committee resumed at 1830.

## AIDS COMMITTEE OF WINDSOR

**The Chair:** It's 6:30. We're going to resume. I want to remind people that if they want to take advantage of French translation services, there are receivers and earpieces available for them.

The first participant is the AIDS Committee of Windsor. Sir, we have to know your name and your title, if any. We've got your written submission, which will become an exhibit, part of the record. We've got half an hour. Please try to keep at least the last half of the half-hour for exchanges, questions and dialogue. Go ahead, tell us what you will.

**Mr Steve Lough:** My name is Steve Lough. I'm the executive director of the AIDS Committee of Windsor. I want to thank you for the opportunity to comment on the proposed amendments to the Ontario Labour Relations Act.

The community-based AIDS movement and the AIDS Committee of Windsor in particular have long recognized the interrelationships of many laws, professions and practices in the response to HIV and AIDS. Our response has therefore had to be comprehensive. We have found that the needs of people with HIV and AIDS involve many different institutions and practices in our society. We are committed to advocating for compassionate and effective changes to ensure a positive environment, both for people with HIV and AIDS and for the primary prevention programs we believe are necessary. It is from this perspective that our views on this legislation come.

First of all, regarding the purpose of the act, the addition of a purpose to the legislation spells out most clearly why I speak in favour of these amendments. In community AIDS work, our biggest non-medical obstacle is the power of fear in the spread of the epidemic and in the progression from simple HIV infection to full-blown AIDS. The number and level of fears we encounter from individuals indicates that a more widespread problem exists in our society. People are afraid to speak their minds and afraid to seek help that may save their lives. They are afraid of their families, afraid of their friends, afraid of their employers and afraid of the state.

First and foremost, these amendments take a progressive step towards a more just and cooperative employment environment. They will not in themselves overcome the climate of fear I referred to, but they address a part of it.

Employment is an area of constant concern for people with HIV and AIDS. Whether one is considering testing or faced with the inability to continue working, the issues of the workplace and relations with employers are times of great stress and often discrimination. Proactive measures that improve the knowledge and ability of employers and unions to recognize and respond to the needs of individual workers will go a long way towards easing the trauma of this epidemic. These amendments spell out the purpose of the legislation as cooperation over antagonism and participation over exclusion. This is an important and compassionate approach to labour relations.

Regarding organizing and collective bargaining, it has been our experience that workplaces which are unionized and which have a history of collective agreements are less likely to deal with a case of HIV infection or AIDS illegally or immorally. In these companies, proactive efforts have been made to set out rational guidelines for relations with workers. Some work has already been done to think through a compassionate and effective response to issues.

Union certification doesn't guarantee that employees will have fewer problems regarding their HIV status, but it does set a new progressive standard, both in the nature of issues that are addressed and in the process by which they are resolved. Therefore the sections strengthening certification, first collective agreements, replacement workers and successor rights go a long way towards addressing the fears around work.

The amendment regarding ongoing consultation of workers again contributes to an environment of safety. As important, I think, and more subtle is the contribution to an individual's self-esteem. People who are asked to participate in society and those who do take active roles build their own inner strength that spills into other areas of their life. Self-esteem plays a large role in one's ability to change risky behaviour, as in the transmission of HIV. It also plays a role in one's ability to take charge of one's health.

Health care agencies, including our own, have often encouraged such a proactive approach to health, only to realize that individuals are not prepared by anything else in their life to take charge of their health. Building a model of inclusion and participation in the workplace will go a long way towards encouraging all of us to participate in our own health. It has also been proven to contribute to increased productivity.

The inclusion of part-time employees in certification and collective bargaining has been necessary for some time. More and more employers are adopting a part-time model. For people with HIV and AIDS who experience limitations in their ability to work, this allows an important option for manageable productive work. Previous to these amendments, part-time meant second-class. From a social perspective as well as a legal one, part-time workers face greater insecurity and lack of benefits in their workplace. This legislation will not solve the problem entirely, but it takes a modest step towards responding to the changing workplace with compassion and inclusion.

Adding to the power of arbitrators the ability to interpret other employment-related legislation is a positive step towards effectiveness. As I said in the beginning, everything in HIV and AIDS is interrelated. It is important to the process of any government regulation or program that it recognizes reality. So often in human services, a large percentage of people in need fall between program criteria. We refer to that as falling between the cracks. They also face a compartmentalized legal and social system that can't respond to multiple issues. At least in the field of labour relations, there will now be the possibility of a more comprehensive approach to dispute resolution.



Regarding the continuation of benefits, unfortunately just when people need their health benefit plans most is when they lose these benefits due to an inability to work. Although this legislation does not address this problem entirely, the continuation of benefits for workers on strike does eliminate one destructive scenario for people with HIV and AIDS. Staying healthy with HIV infection costs money. Whether it is traditional therapies or alternatives, benefit plans have come a long way towards recognizing the advantages of a proactive approach to staying well. These steps to ensure continuation of coverage during a work stoppage are socially responsible and necessary for health.

Regarding the power to grant interim relief, most people with HIV and AIDS do not fight discrimination or other employment problems in part because of the delays between filing a complaint and any successful resolution. The addition of the power to grant interim relief addresses in a small way the problems faced by workers, including those with HIV, who cannot wait to have their grievances resolved. It is a step towards a more compassionate and effective system.

To conclude, these amendments address some of the problems faced by people with HIV and AIDS in the workplace. They include compassion, while increasing the effectiveness of the labour relations system. It is my belief that a compassionate and inclusive system of labour relations is not incompatible with a productive and efficient one; in fact the first is necessary before the second can be accomplished. In the present climate, it is not likely that any more dramatic changes are affordable or would gain consensus. I think that the government can be congratulated on the positive steps that it is making at this time.

**The Chair:** Thank you. Mr Offer, Mr Phillips and Mr Brown.

**Mr Offer:** I have a question. I thank you for the presentation. There is one area you've brought forward which I would like to explore briefly, and that's the continuation of benefits. I'd like to actually use the time to put ministry staff on notice because I would like to get a clarification. I will probably be using the wrong words and all of those things, but my understanding is that during a strike, the union can make the payments so that these types of benefits can continue.

I've been informed that this is assuming the plan is something that has a specific premium and it is paid regularly and the premium is the same. I have been further informed that in fact that is not the case, that in many cases these plans are claims-administration type of plans, where, for instance, the claims for the previous three months or four months are tallied up and basically it's something which is not necessarily the same payment each and every payment period and that the period for payment during the strike may actually be three, four, five or six months after the strike ends. So I think the point you bring is extremely important.

1840

What I would hope is that ministry staff could, if not today, somewhere down the line, address the concern as to whether the wording in the legislation is sufficient to make

certain that the union, which has the opportunity of maintaining the coverage, will be able to do so, in that the premium actually may become due and payable three, four or five months past the date.

**The Chair:** Okay, that's been noted. I'm trusting that the clerk will also pull your Hansard transcript and make sure that's made available to the ministry.

**Mr Offer:** Thank you for bringing that up. I think it's a very crucial point actually.

**Mr Phillips:** I was a bit surprised at the presentation in that, because maybe 80% of the people in the private sector are non-unionized, I would have thought that your advocacy work would have been focused more on the Employment Standards Act rather than the Labour Relations Act, in ensuring that all workplaces have the things you talk about.

I was surprised that your presentation assumed that the collective bargaining area was the area to focus on rather than recommending to the committee that the Employment Standards Act should be changed so that all workplaces dealt with your issues. I'm concerned about the presentation, because it seems to me it heads in a certain direction that may not benefit all of the people who need protection.

**Mr Lough:** My approach was specifically to address the amendments to the Ontario Labour Relations Act. As I understand, the changes to the Employment Standards Act and Workers' Compensation Act are simply auxiliary changes at this point to bring them into line with these changes in the Ontario Labour Relations Act. I'm not here advocating for those changes because I didn't understand that to be the nature of this committee.

We do not in any way limit our advocacy work. I have personally appeared before a number of provincial government commissions and committees. We are continually advocating for changes, not only in legislation but in things that may seem as far afield of our own expertise as the design of clinical trials for new drugs.

I didn't speak to the Employment Standards Act specifically, because I understood this committee to be dealing with the Labour Relations Act.

**Mr Phillips:** It is, but I'm concerned about your recommendations, because I would have expected them to be saying, "Listen, in terms of dealing with our issues, the Employment Standards Act is a more important piece of legislation than this," and by suggesting these issues will be solved through the Labour Relations Act—my suggestion to you would be to at least examine that you may be heading in the wrong direction.

**Mr Lough:** I don't in any way think these amendments are going to resolve the problem. I hope I made myself clear that these are modest steps towards creating a constructive environment in the workplace. Even the most perfect environment, from my own perspective or from the committee's, would not resolve all the workplace issues for people with HIV, because as I tried to point out, we have found that the interrelationships of different institutions and cultures in our society are so strong that we need some changes here in the Labour Relations Act. You're absolutely right: We need changes in the Employment

Standards Act and we need changes in the Workers' Compensation Act and we need changes in the social assistance system, and I could run through a number of federal government programs as well. Bit by bit, we try to advocate and speak to the specific issues that are being dealt with at any one time by the government of the day or parliamentary committees or commissions that may come.

**Mr Brown:** First of all, I appreciate your presentation because it brings to us a point of view I don't think we've heard before. I'm interested in your first statement under "Organizing and Collective Bargaining," where you said, "It has been our experience that workplaces which are unionized and which have a history of collective agreements are less likely to deal with a case of HIV infection or AIDS illegally or immorally."

I wonder if you have some numbers to indicate that, recognizing that 80% of the people are in non-unionized settings. Obviously you would expect more problems among the 80% than you would among the 20%. That's just statistically; whether you have some examples.

Second, it bothers me that there's some illegal activity going on, because that's what you're saying, that there's illegal activity. I take it your group and others would be taking up the gauntlet to pursue those cases which are in violation of present law. Maybe you could give me some examples.

**Mr Lough:** Two things: It's very difficult for me to talk about individual cases without risking breach of confidentiality. To expand on that a little, though, what my experience has been and that of the committee I've been heading now for four years is that in a unionized environment there is a standardized way of dealing with disputes. For instance, it is much more difficult for me as an employer to say to you, "You're fired, because I don't like you because you don't hang around with the same people I do, and the gentleman beside you can stay, because he buys the beer on Saturday," or whatever. I use a ludicrous example to make the point that in a unionized environment, if someone gets fired, there's a clause somewhere in the collective agreement as to how that is to be grieved: Certain people have to be involved, a certain process has to be followed.

Those types of systems, as imperfect as they may be, encourage people to think through ahead of time: "What's going to happen if we fire somebody? What's going to happen if someone in our workplace has HIV and nobody else wants to work with him?" Even before that's happened, there's already a habit of thinking through issues that may present conflict within the workplace, not to mention just the general trend following unionization to increase the benefits to workers and the rights they have within a particular workplace, whether it be for time off sick or a benefit plan or whatever.

It creates an environment in which those issues can be dealt with in a more rational way. Even if an issue of HIV infection comes up in a workplace and nobody's ever dealt with it before, there's already a history there of dealing with things in an organized and rational way that there isn't necessarily in a non-union environment.

**The Chair:** Thank you. We've got to move on to Mr Tilson.

1850

**Mr Tilson:** A lot of my comments follow the line of questioning Mr Phillips was proceeding with, that this is obviously an almost unbelievably serious social problem. You have mentioned all kinds of pieces of legislation where perhaps it should be referred to, although it's not specifically referred to anywhere in this particular bill. My thinking is that if it's going to be put in the bill—your observation was about the individual's self-esteem, individuals being afraid of everybody under the sun: afraid of their families, afraid of their friends, afraid of their employers, afraid of the state. You could add afraid of the union, you really could. Everybody's afraid of it. Everybody's afraid of dealing with it, and this bill doesn't deal with it. When you look at the purpose clause, the bill doesn't set forth rules and doesn't set forth the specifics you want; in fact, it's not even close to that.

Rather than putting forth a set of rules for employers, employees and the union, they're saying the whole purpose of this bill is to encourage the process of collective bargaining. It doesn't come close to the very serious social problem you're talking about, and that needs to be addressed if you're going to get that issue into the collective bargaining process—not ignoring Mr Phillips's very valid comments.

I suppose, in other words, that the whole purpose of this bill, as you read section 5 of the bill, is not to put forward a better set of rules but to simply say that employees ought to be represented by a trade union; in fact, it's in the interests simply of organized labour being made easier to organize.

It may well be that your comments are connected to the whole issue of organization, the whole issue of collective bargaining, but if that's your concern, then I'd recommend that you put forward to the government recommendations for specific amendments to deal with the specific concerns you're putting forward to alleviate those fears that apply everywhere, from the family to the union to the employer to the employee.

**Mr Lough:** My point was that it's broader than any one rule on two fronts, both within the Labour Relations Act. It doesn't come down to specifically one addition to one clause or one addition to another. I agree that there could be more added to the purpose to spell things out more clearly. I think this is a pretty big step forward, though, and I work from a basis of reality. I would like the world to be changed tomorrow, but it's not going to be, so this I look upon as an important step forward.

When I see the extension of cooperative approaches between employers and trade unions etc, I've never seen that in labour legislation in Ontario before. So as general as it might be, it's important to state it up front, and it sets a tone by which the rest of the rules will be enforced and arbitrated etc.

**Mr Tilson:** As I say, sir, that's the issue. I agree with everything you're saying except that one point, that the purpose of this bill does not put forward a set of rules. There are all kinds of rules. There are all kinds of problems that we hear at these hearings, whether it be the



conduct of employers, the conduct of employees, the conduct of government, and we've heard all kinds of allegations being made; many may be founded, many may not be founded. Now you've added another element, that instead of putting forward a set of rules, the government simply says that all employees ought to be represented by a trade union, which gets back to Mr Phillips's question.

The real issue is that we have a social problem. Anyone who is an employer or an employee should be addressing this problem. It's not a union problem; it's not a management problem; it's a social problem that should be dealt with by all.

**Mr Lough:** But it is dealt with by employers and it is dealt with by unions. That's why we have to speak to it here at the labour relations. As to the specifics, I don't know if you think these other things aren't rules, but it seems to me that changing the powers of arbitrators and the power of the board etc are specific rules.

**Mr Tilson:** How is that going to solve this problem you raised?

**Mr Lough:** I outlined in some detail that simply the power of the board to grant interim relief would make a hell of a difference for someone with HIV who doesn't know how long he's going to live. When these things carry on two and three years, which is not uncommon—

**Mr Tilson:** The bill doesn't say that, sir.

**Mr Lough:** No, it doesn't guarantee it and I'm under no illusion that I can come here and demand that it guarantee it and get anywhere. I wish it were stronger, yes, I do, and if you're speaking in favour of making it stronger, I would certainly support that. I am well aware that this bill has been hotly debated and that there's very strong opposition from the corporate community. I think these are modest changes and that's why I do congratulate the government. If you're asking whether I would like more, I would like more, yes.

**Mr Dadamo:** Steven, thank you. As executive director, you are privy to all sorts of complaints that come through your office and your telephone lines. Do you have in your mind a collection of people who are being discriminated against on the job site because they have HIV?

**Mr Lough:** I don't know if I can narrow it down to any one particular scenario. It varies widely with individuals, as does the progression of the disease. With some people, there have been cases of out-and-out firing. In case anybody asks, they are not followed up, because nobody wants to tell anybody he has HIV. In other cases, it's being shifted to a lower level of employment, maybe from a supervisory position to some sort of line position, being moved out of a public position, let's say in the service industry or whatever, moved to some backroom job and less pay or whatever. The issue of benefit plans is another whole kettle of worms, what they cover and what they don't cover, and problems do arise regarding that. Those are the first ones that come to mind.

**Ms Murdock:** I wanted to get to the ability of the power of arbitrators to interpret other employment-related legislation, because we've had presenters in the last two

weeks who have indicated that they are opposed to extending the powers of the arbitrators to go into other pieces of legislation, the Human Rights Code specifically. I would like your comments about that and why you would say it's a positive step towards effectiveness.

**Mr Lough:** If there's one thing I face day to day it's what I like to call the compartmentalization of our system. Somebody comes to me or to someone else at the AIDS committee and needs help. So I pull out the Labour Relations Act and social assistance etc; I can have all the laws and the programs and everything and—I was going to say 90%; I won't say it so I don't get stuck to numbers, but an incredible number of people do not fit those program rules. Yes, maybe they qualify kind of half, maybe, on this one over here, and on this one over here they would qualify except for one small point, and then there's a third one over here. They don't really fit the programs.

If they do fit the programs, then they have to go over here to get this labour relations issue dealt with and they have to go over here to get this employment standards issue dealt with and they have to go somewhere else for their compensation part of it, somewhere else for their social assistance or Ontario Human Rights Code issues. So they present themselves with what seems to be a problem that has numerous elements to it, and so often our system says, "I can only deal with this one little piece of it and you've got to go across the hall or to the other end of town to deal with the other pieces of it."

What I saw in this extension of the powers of arbitrators was at least the ability to reach outside the Labour Relations Act a little bit to at least those other pieces of legislation and to not live in a tunnel world, as we so often do in this society, and pretend that other things don't affect us. All those pieces of legislation and many others would probably come to bear on any particular case, and for the arbitrators to operate in some sort of isolation I think is unreal and certainly no service to the people involved.

1900

**The Chair:** Mr Hayes had a question as well.

**Mr Hayes:** Actually, it's kind of a supplement to Mr Dadamo's question. I know that some of the organized workplaces do have policies to help to deal with and assist people with HIV or AIDS. There are some I know that I've seen that probably don't go far enough.

I know that you represent people in organized workplaces and unorganized workplaces. Do you get any feeling back from the people that they may be treated differently in an organized workplace than they would be in an unorganized workplace?

**Mr Lough:** Yes. It's been our experience—and again, this is a generalization—in organized workplaces there has been some attempt to at least discuss this issue, if not actually to get a policy into place.

**Mr Hayes:** Cooperation.

**Mr Lough:** Right. Certainly for the ones that have policies in place things run very smoothly, because everybody knows just how to act. They don't throw their hands up in the air and go screaming from the room when someone admits to having HIV. They know what to do. They

know what the proper, rational steps are. That's much more common in a unionized environment than a non-union.

**The Chair:** The committee thanks you, Steven Lough, and the AIDS Committee of Windsor for bringing to the committee a perspective on this legislation that had not yet been presented. So we thank you for your interest. We trust you'll be keeping in touch and welcome further input from you.

JOHN McARTHUR  
EDWARD BAILLARGEON

**The Chair:** The next participants are John McArthur and Edward Baillargeon. Please tell us which of you is which. We've got your written submissions. Tell us your names and tell us what you want to tell us about Bill 40. Try to leave, as you noticed with the last presentation, at least the last half of the half-hour time frame for questions and exchanges.

**Mr John McArthur:** It's all arranged.

I'm John, and this is Edward Baillargeon. We welcome this opportunity to appear before you. Although my colleague Ed Baillargeon and I are participating in this hearing as private citizens, we both have very definitive opinions shaped by many years as activists in the Canadian automobile workers union. We've spent a number of years on the assembly line at Chrysler and participated in several major strikes during the 1950s and 1960s.

Mr Baillargeon, like myself now retired, was a union representative for 40 years and was president of the Windsor District Labour Council for 18 years. I worked full-time for the union for 13 years as a labour journalist and PR person.

These circumstances have enabled us to witness and experience firsthand the historical and ongoing confrontation between management and union, between capital and labour, manifested, on the one hand, by the struggles of workers for a measure of equity in the workplace in terms of monetary reward and tolerable working conditions, and on the other, by the initial vigorous opposition of the corporations to all proposals, followed by reluctant, grudging concessions over many years of negotiations and conflict.

There is no denying that the corporate agenda and that of the labour movement are more often than not diametrically opposed. Currently, the most prominent expression of this clash of interests is industry's near-hysterical response to the modest proposals for reform embraced in Bill 40. Their public outcry has included statements and claims which are somewhat distant from reality. Perhaps chief among them is the argument that passage of the legislation, even in its present watered-down form, will tip the scales in labour's favour. This of course stems from the assumption that these scales are presently evenly balanced, a contention which industry and its supporters in the public media have been making for decades, although it is patently false.

In fact, even in the best of economic times, when unions are at their most effective, that equality is illusory—non-existent. There is always a marked imbalance between the respective rights of management and labour. Contractual agreements explicitly spell out that manage-

ment's fundamental prerogatives are sacrosanct. The right to operate plants and offices and to hire and fire belongs exclusively to management, tempered only by the union's right to lodge a grievance, and the grievance procedure, as any trade unionist will agree, is not the most perfect instrument for assuring fairness in labour-management relations.

Replacement workers: The right to strike, the most potent weapon in the union's arsenal, is the nearest thing to an equalizer in labour relations, but in a poor economic climate such as we are experiencing today, that weapon can be seriously blunted. Assuredly we are all familiar with the business lobby's threats to close down operations and locate elsewhere, threats which have gone into high gear since the provincial government's announced amendments to the OLRA.

It's noteworthy to recall that in Ontario restrictions are imposed on strikes so that they are legal only upon expiration of the contract. Between contracts, the employer has a free hand, subject only to the grievance procedure, a distinct advantage indeed.

The linchpin of strike action is to deny the employer his productivity, to hit him in the pocketbook, so to speak. The employee in turn forgoes his income, usually at considerable sacrifice. The scales could thus be termed relatively equal at this point. However, under current legislation, as we're all aware, the company is permitted to hire strikebreakers, alias scabs, euphemistically called replacement workers.

Superficially, it appears to be quite a democratic arrangement: Workers are allowed to strike and employers can take on substitute employees. But given a moment's thought, it can be seen that this is an incredible scenario. Surely it's quite preposterous that workers voluntarily give up their employment and their income and then are forced to stand idly by while other workers are shepherded into the plant to take their place.

Bill 40 addresses this issue. The provision to prohibit the use of replacement workers is ridiculously long overdue. It rights a wrong in the moral sense, but more than that, this legislation will contribute to eliminating the tense emotional crisis situations which develop on the picket line when replacement workers run the gauntlet of angry and frustrated men and women who are exercising their democratic right to participate in a legal strike.

No other single issue sours labour-management relations more than the employment of strikebreakers. Any talk of reducing the adversarial nature of labour relations will remain empty rhetoric until this law is amended.

In many instances the police, ostensibly neutral, are used to escort replacements into the workplace, thereby placing themselves directly on the side of the employer. There have been cases in small communities where strike-breaking and police involvement have left a residue of bitterness that has lasted for years.

There have been many strikes during which confrontation has been provoked by the use of strikebreakers, but one that readily comes to mind is the Fleck strike 14 years ago, probably because the workforce was female and the fact that automobile workers, many from Windsor, were among union members who joined their picket line.



A statement by the Women's Incentive Centre here in Windsor graphically described how, during the six-month strike for a first contract:

"Strikebreakers were brought in...the Ontario Provincial Police conducted militarylike manoeuvres to smash the replacement workers through picket lines of 78 women and their supporters. Ontario labour board charges and countercharges were laid. At one point, 500 officers and 200 more in reserve were brought to the site. TV cameras rolled as women were beaten and chased. Union members were jailed. One constable boasted, 'A lot of them got a bellyful of billies.'"

1910

Eventually the women won ratification and learned some cogent lessons in the process, among them the fact that when the employers cannot exercise total power in the workplace, they will use the power of the state.

Someone recently observed that when laws to prohibit child labour were introduced, they were vehemently opposed by employers. It seems evident that some of the more reactionary elements in the business community have not changed very much since those days. The resistance to social progress as it applies to working people remains strong. However, we are confident that in the near future the use of strikebreakers will be viewed as a forgettable relic of the past.

Improved labour relations: We are aware that the replacement worker issue has been one of the key topics in your hearings, and you will have heard a great deal of repetition, to which we're now contributing. It's regrettable but unavoidable since it plays such a vital role as an obstacle to improvements in labour relations.

In our submission we have pointed out the conflicting, opposing interests of employer and employee. The respective interests of capital and labour are disparate and contradictory, and often incompatible. We look upon this condition as a natural product of the free enterprise, capitalist society in which we live, but we do not interpret this to mean that we have no common goals.

Business circles are mistaken if they assume that workers and their union representatives are blind to, or ignore, the hard economic realities of our times. Industry, its political spokespersons and the pro-business press have ceaselessly extolled competition as the wonderful driving force pushing us inexorably towards higher living standards. Now they are humming a rather different tune, warning us of the competitive dog-eat-dog nature of society and of the fate that will befall us if we don't shape up.

This, then, is surely an appropriate moment to examine whether some of our differences can be resolved. Contrary to the views expressed by many in the business community, we think the amendments to the act open the door to that possibility.

We agree with the minister's statement in the discussion paper, page 7, that Ontario's ability to compete would be helped by improved labour-management relationships and an increased cooperation between labour, management and the government. As well, we endorse the concept of employee involvement through their trade unions, and that this can have an overall positive effect.

Union members will work sensibly with a management that is fair and open with them. Workers want to keep their jobs and produce good-quality products. They have no intention of pricing themselves out of the market.

We believe business is wrong when it assumes the changes in the act must necessarily be detrimental to it. By updating the legislation, the government is taking important and overdue steps towards lessening the adversarial nature of the relationship. Certainly, removing the \$1 initiation fee in the certification process and discarding the use of petitions, which helped thwart certification, are logical moves in that direction.

We cannot disregard that the backdrop to our discussions is a level of unemployment that shows no sign of abating. Technological advances are eating up jobs, and government policies involving trade arrangements are undoubtedly exacerbating the situation.

To be quite candid, in this economic environment, powerful elements in the business world are less interested in improved labour relations than in determining how best to fit, profitwise, into the global competitive scene. Their thrust leans more towards intimidating workers on this continent by flaying them with the need to compete against low-paid workforces elsewhere. Where this philosophy prevails—and undoubtedly it permeates the thinking of significant segments of our business community—the opportunities for better labour relations become remote.

It is obviously unthinkable that Canadian workers will become involved in a cost-cutting contest with workers in other parts of the world, including Mexico, who are labouring under oppressive conditions reminiscent, in some cases, of the Middle Ages. The work scene and living conditions in Canada and the United States conform to North America's specific historical, economic and cultural structure. They have been molded in considerable measure by years of union struggle and will not be surrendered.

It seems to us that in the international trade struggle for markets, Canadian industry and business generally, like their counterparts elsewhere, have legitimate concerns. But rather than focusing so much effort on attacking the labour act reforms, business would be more gainfully occupied targeting the political policies which are contributing to our economic malaise.

In conclusion, as you have probably guessed, we support the proposed amendments. They are no panacea and fall short of all that's required, but represent a small advance towards a more just and fair relationship. Thank you.

**Mr Tilson:** I'd like to talk with you a little bit about the replacement worker. You've mentioned that, and obviously that is one of the major issues in these hearings. It's raised both by union and management.

Currently, of course, when there is a strike the employee suffers if replacement workers are hired, and at the same time management suffers as well perhaps because of inefficiency. They lose the expertise—the replacement workers they hire perhaps aren't as expert in the particular work they're doing—and there's the issue of instability, the reaction of financial institutions towards management. All of this gives both sides a desire to proceed with the collective bargaining process for their own different reasons.

Now, of course there is nothing, in my estimation, to encourage the management to proceed in the collective bargaining process, which I think is the ultimate aim of the whole process, to get the two parties together and create a contract that will be acceptable to both to make the system run a little smoother. But there's none of that which will encourage the management to proceed with that process; in fact quite the contrary. They now essentially must shut down because there's no—

Interjection.

**Mr Tilson:** Well, they can do other things. They can move out of the province, they can close up their place and end it or they can cave in completely. Caving in completely may cause problems that perhaps the union hadn't thought of, because the whole collective bargaining process has come to an end. There will be no collective bargaining process because it's a win-win situation.

I guess my question to you is that if you acknowledge, and I hope you do, that the collective bargaining process is the ultimate end, and if you also acknowledge that the company or the business must shut down—it can't operate because the law says it can't operate—how are we going to encourage the parties to get into the collective bargaining process?

**Mr McArthur:** Just one point: We see it perhaps in terms of the other side of the coin. It seems to us that where the company is able to take on replacement workers, then the incentive for the company to sit down and bargain fairly is taken away.

The whole idea of strike action—and strikes began long before unions evolved—was, as you put it, to stop things so that the company would respond. It just seems rather obvious to us that in order to have an even situation, the even playing field syndrome, if workers are out there without their wages they're very anxious to get back to work. They're very anxious that their union representatives work night and day to get them back. If management does not have replacement workers it also has a great deal of pressure on it to make a settlement. It seems to us that is the way to go and that's what we're striving for.

**Mr Tilson:** I suppose if you're looking at the fact of no longer having a bargaining—there's no need to bargain, and quite the contrary, the management doesn't want replacement workers because they're not as efficient, they're not as well trained, they're not as well qualified. They don't like the instability that's being created out there of financial institutions looking at how a company is operating with inferior employees. They don't want that. They want to move ahead. So there is a lot of pressure on them. They're hurting and the employee is hurting.

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But now I again emphasize to you, there will be no need to get into the collective bargaining process, because it will have come to an end. There's no need to bargain. The strike is a very valid tool, and I think there's no question that the right to strike should not be taken away, but I challenge you as to this fine balance. There is no balance.

**Mr Edward Baillargeon:** Frankly it's difficult to follow that rationale, because if the company says it doesn't

want to do it, then why does it do it? You're indicating to us that they're forced to do it. They don't want to do it, but they're forced to do it.

**Mr Tilson:** Sir, they have to close their doors.

**Mr Baillargeon:** That's what the strike's all about.

**Mr Tilson:** But that's not quite true.

**Mr Baillargeon:** I'm trying to find your rationale.

**Mr Tilson:** The purpose of a strike and the purpose of both parties taking specific action is to encourage the continuation—I mean, obviously something's failed; the strike is the last resort.

**Mr Baillargeon:** But sometimes the company doesn't want to sit at the bargaining table. They want to create a situation. That's the problem. They're the creators of the problem. If they don't want to do these things, why do they do them?

**Mr Tilson:** Are you telling me the strike won't bring them to the table?

**Mr Baillargeon:** Not always.

**Mr Tilson:** That's quite true, but what's going to bring the management to the table when the management has to close its doors and possibly—

**Mr Baillargeon:** No, that isn't always the case. They decide when it becomes an economic necessity for them to come to the table.

**Mr Tilson:** I simply say to you, sir, what choice does the management now have? What can it do when it can no longer operate? One, it can cave in to the union's demands, rightly or wrongly. You're assuming of course that the demands are quite reasonable and they may well be. I know what you're saying. I mean, you and I are obviously philosophically going to be different on this and I think we both appreciate that.

**Mr Baillargeon:** But I would appreciate it if you would give us an example where the demands become unreasonable.

**Mr Tilson:** The management has several choices. One is that it can cave in completely to the union demands, reasonably or unreasonably. The second choice they have is that they can close their doors permanently. The third choice they have is that they can simply move the company.

**Mr Baillargeon:** The company comes to us at the bargaining table and it says: "Look, we can't do this. We have laid out the choices." If they bring it out to the union and show that they'll have to close their doors because they can't operate, and economic facts show that, then they'll sit down and work it out on that basis. It's been done. This is done all the time.

**Mr McArthur:** Chrysler, Ford and GM—and maybe it's unfair to use these because they're large outfits—have a process whereby if there is a strike, they don't use replacement workers. They sit down and bargain and, by golly, they don't cave in. You can't say they cave in when they're making millions of dollars. Their problems come from elsewhere, from competition and so on, but I think it would be wrong to assume they cave in. Certainly the union members don't think they've caved in.



**Mr Tilson:** Sir, when we're thinking about maintaining jobs, they're the people who are suffering. In other words, if the jobs cave in, for whatever reason, those are the people who are suffering. The union leaders, they're always going to be fine.

Interjections.

**Mr Tilson:** They're always going to be fine. If the company closes its doors, who's going to suffer?

**Mr Baillargeon:** Who do you think sits down and negotiates these contracts?

**Mr Tilson:** They're people called union leaders.

**Mr Baillargeon:** No, they're called the representatives of the plant. When the plant goes, they go.

**Mr Tilson:** All right.

**Mr Baillargeon:** I can show you many workers where plants have shut down here who are trade unionists and are without jobs. I mean, I don't know where you've been.

**Mr Tilson:** As I said at the outset, sir, I don't think you and I are going to change each other's minds on that subject. Do I have time for another area, Mr Chair?

**The Chair:** If you can make it very brief, Mr Tilson.

**Mr Tilson:** Very brief is that the petition process now is gone as far as certification is concerned. The changing of the workers' minds when they have approved a specific—a union has become certified and now, of course, through a petition process, as the law now exists there is a means in which they can change their minds. Now that process has been removed. Examples have been given, of course, of duress and threats and all kinds of other things as a result of that petition process. In other words, it has been described to us as being faulty.

If that's the reason for doing away with the petition process, wouldn't it be better simply to provide very strong amendments to that whole petition process, as opposed to completely doing away with it and precluding the employees from changing their minds, as they do in other commercial contracts?

**Mr McArthur:** In the process here, when the union approaches employees, it often goes to their homes. They sit down and talk it over. It's not a quick decision on the part of employees, far from it, and they give a great deal of thought to the matter. It seems to us that this is the way to go, to continue going in that direction.

**Mr Baillargeon:** The majority of employees come to the union for organization; it's not the union going there.

**The Chair:** Mr Hayes, then Mr Lessard. Mr Hayes, briefly, so that Mr Lessard can ask his question.

**Mr Hayes:** In your presentation, John and Ed, I note where you say, "In Ontario, restrictions are imposed on strikes so that they are legal only upon the expiration of the contract." Then you go on to say, "Between contracts, the employer has a free hand, subject only to the grievance process."

I know this has been a problem, where unions have had to go to negotiations and negotiate the settlement of some of their grievances when they could be negotiating some other issues. Sometimes they're forced to wait three years,

for example, or two years, to go to negotiations to do this. Do you feel that this legislation would help to streamline the grievance procedure?

**Mr McArthur:** Yes, and I think my colleague here can speak to that from a great deal of personal experience. I do recall literally thousands of grievances piling up at Chrysler because the company knew that it had three years or whatever to go. He can speak to it better than I can.

**Mr Baillargeon:** For an example in that incident, we had 2,200 employees at that time and we had 2,800 grievances at the table. Prior to that, the company had brought in a labour relations person from outside. As a result of this, he just changed the whole collective agreement, which resulted in these large sets of grievances. It took us some 40 days of continuous negotiations to work these things out.

I might say that after the negotiations, they fired the person they had brought in, got rid of him as a result, but the problems that he created in that environment took a long time. I think the company learned a great lesson from that, because following that we had very few problems in grievance proceedings. We had grievances, but we got them resolved, and in many instances didn't have to go to the third step of arbitration.

**Mr Lessard:** My questions follow somewhat upon Mr Tilson's line of questioning as well. I was really impressed by one of the statements that you made. You said, "Union members will work sensibly with a management that is fair and open with them." We have a good example here in our community of the Chrysler mini-van plant, where that's something that takes place on a daily basis.

To follow Mr Tilson's argument, he suggests that if there is no ability to use replacement workers during a strike, then the company is just going to cave in completely and it will just settle an agreement that's going to put it out of existence. It's difficult for me to imagine that, but it seems to me that a great deal of consideration and thought goes into the decision to actually go on strike. It's something that I would think the union leadership would have to do on a very reasonable basis.

I wondered, based on your long experience in union negotiations and with the labour movement, whether either of you could explain to some of us who don't come from that background some of the things that go into deciding whether to go on strike, what goes into that decision-making.

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**Mr Baillargeon:** Normally what happens is a long process prior to going to the bargaining table in some instances, especially if we are going into applying something relatively new. It might be a cost factor. What normally happens is that the accountants from both the union and the company sit down and work out the projected cost. For an example, when we sat down and negotiated the pension plan, when our expert came in and quoted a figure the company didn't argue, because these people know what they're talking about, they know right to the cent; in fact, we were a little more liberal towards the company's side.

Our people have a tendency not to be caught out of line. When they draw up the program, they know just what

the costs are in relationship. They know, they've been around long enough. When they meet with small companies, they recognize what ability they have. All they have to do is open their books. If they're going to go out of business, certainly they'd be prepared to show the people they are claiming will be responsible for putting them out of business.

I know this has been done, where people have sat down and said: "Look, this is what we have to do. We have to make changes." I think Chrysler's a perfect example. They got into concessions. Not too many people were happy with it and it could be argued, but they did sit down and they did work out an agreement.

Like I said, people don't want to be out on the street. I would say that the majority of strikes do not involve money. Usually it's the attitude of management in the plant. If you have a good employer and you're happy to go to work, that's 90%, that's what they want to feel. If the employer's fair with them, money comes second. It's true that once they become organized and we can see the employer is paid fair, we'll ask for our fair share.

In the strikes I've been involved in, money was secondary. Usually it was some issue in the plant. I can recall in one of the major strikes we were involved in, it was the right to dispute the standard on the job. The company said, "That's a managerial right and we're not prepared to give it up." It took some time to work out the language, but we did, and we did work out a procedure in which, if people were being asked to do an unjust amount of work, there could be a way of solving it. That was simple. It was done.

They were concerned about major problems and a third party coming in to resolve it. That doesn't happen. All these issues raised are smokescreens. Management doesn't want to give up one major right it has. They're not prepared to give it up. You can see it through the collective bargaining. Anything that's new they resist. Eventually, once they work it out, 99%.

Look at the health and safety. It wasn't brought in by this government. People were crying that something was going to be happening all the way through; chaos in the plant. It hasn't happened.

Look at the hours of work. That was brought in by the government years back. They were saying: "You can't give people the right to refuse hours of work. We'll have chaos." We met with the government and met with management. They resisted. The government told them, "That's the law; live up to it." No problems.

Look what happened in Oshawa. People said: "We've got a problem. We're going to shut down." The union met with the Oshawa management and worked out a relationship to continue to work. Was that unreasonable, to ask that a worker representative have something to say about what goes on in the workplace? Is that unreasonable? It's all we're asking.

**Mr Phillips:** I appreciate the thoughtful comments by two obviously very experienced people. If I read your brief properly, I think your fundamental thrust is that in the event of a strike, essentially the company should stop production, then the strike begins and whoever can outwait the other one—

**Mr McArthur:** I think that was the original idea.

**Mr Phillips:** That's your brief, I think, that no company should continue to operate during a strike. I understand that, and if that's the fundamental thrust of your brief, my question really is this: There are certain businesses that I think cannot sustain a strike for any significant period of time and still have a business. The automotive people can; they build inventory and all that stuff. But I don't think industries like newspapers can, particularly when they are competing. Experience shows that readers leave and they don't come back. I think many retail stores could not survive a strike for very long. They close completely, because experience shows customers leave. There are certain other businesses that supply major companies, and they demand, if they are their sole supplier, that they supply it; if they can't, they'll find another supplier.

So my view is that there are many companies—as I say, the ones you're familiar with, the auto companies, can survive for a long time because they only have a strike every 15 years because you rotate through the three of them and that sort of stuff. But if your thrust is that companies can't operate during a strike, and if you accept my thesis, which is that there are some companies that really can't sustain shutting down for very long, then how can they deal effectively at collective bargaining? If a strike takes place, they know they'll go bankrupt, and one side has that threat. How do we deal with that issue?

**Mr McArthur:** I think the main thrust of our brief is the idea of updating labour relations as we go into the 21st century, so the people will sit opposite one another in a reasonable way and talk about their problems when it comes to a conflict between management and labour. Nobody is saying it's easy, but accepting what you say, we take that angle—

**Mr Phillips:** You accept it, though? That's my theory.

**Mr McArthur:** No, but I'm saying that if we do and then say, "We'll make exceptions here; if there's a strike here, replacement workers are permitted," in real life that just wouldn't work. We can't have one law for one group and another law for another. But where you have situations where an employer is genuinely endangered, imperilled, whatever, then we're saying that's a situation where both the employer and employee have a mutual problem and should be inclined to sit down and talk it over together.

Our argument is that management has not, in the main—perhaps entirely—demonstrated that inclination because of long-held beliefs that: "It's none of your damned business. We're running the show." We want to get over that. We think, as I said earlier and mentioned in the brief, that reasonable trade union members—and we think they're all reasonable when it comes to looking after their jobs—will sit down with management and see how they can work it out. That's what we're saying, I think.

**Mr Phillips:** But do you accept that there are certain companies that could not sustain a strike where they don't have some product coming out at all? The ones I quoted are just examples. Do you accept that?



**Mr McArthur:** I would assume that those are the companies that would want to sit down and get a solution pretty darn quick.

**Mr Phillips:** I know they are. They sure want a solution, but essentially they can't participate in collective bargaining because they cannot sustain a strike where they are closed completely for longer than a very short period of time.

**Mr McArthur:** You're talking about some hypothetical cases. It would have to happen in reality and, as I say, then we see how we can work it out.

**Mr Tilson:** What about the Toronto Telegram?

**Mr Phillips:** Algoma may be one. I don't know.

**Interjection:** The Toronto Telegram?

**Interjection:** They eventually settled their situation, didn't they?

**Mr Phillips:** I appreciate that. There's the dilemma for the committee, that there are going to be some industries that just can't sustain a strike so we have no effective collective bargaining taking place there.

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**Mr McArthur:** I think the percentage of strikes that occur out of all the negotiations that take place is very small. I wouldn't say you're raising a red herring here or anything like that, but it's very difficult to answer that question and be honest about it.

**Mr Baillargeon:** Without knowing all the circumstances. Management might have been going under anyway. We don't know. They might have been on the verge of going under and they just said: "This is the final straw. We're going under. Let's close her up." So whatever the union would have done might not have helped. I don't have that information.

**Mr Offer:** I have one question. A lot of the discussion has taken place pertaining to that period after the strike. But in that period just prior to the strike, would you support a last-offer vote to the workers? In other words, give to the workers information as to what the union has requested, what the employer has offered and what issues remain outstanding, on the verge of a strike, and let them vote yes or no, keeping in mind the issue of replacement workers, and give to the workers in the unit that right to determine the future course of action.

I know there's a strike vote somewhere earlier on in the process. I am talking about a vote after last offer, on last offer. Would you support that for the workers?

**Mr Baillargeon:** I'll tell you my experience with that kind of situation. Asking that the last offer of a company which is not acceptable to the committee be taken to a vote is asking for disaster, because you're going to membership, explaining to them management's last offer and—let me put it this way—the demands that are on the table are extensive and management has met a very small fraction, and the union, your bargaining committee, the people working in the plant, is recommending that this offer falls short and to support your committee on the proposal.

Once that's voted down, that puts your bargaining team in a very precarious position because you've told your membership that these are the issues you're prepared to

strike for and these are the issues you want to fight for, and now the membership has turned down the company offer and you have all of these proposals on the table. That puts your people at the bargaining table in a very awkward position because people on both sides of the bargaining table are saying, "Our membership said to stick with this." I think that's a very dangerous position to put the people in because you'll find that 99% of the time it's turned down.

I've been involved in both sides. Sitting on committees on behalf of the municipality, I've been put in that kind of position. I found it's a bad position, because you firm up the union's position and then there's very little room to manoeuvre.

**The Chair:** Gentlemen, we have to say good evening to you because we've used up our time plus some. I want to thank you very much on behalf of the committee for your interest, for taking the time to prepare this submission and come out here this evening. You have obviously captured the interest and attention of all caucuses on the committee. Whether they all agree with you remains to be seen, but you've undoubtedly provided a valuable contribution to this process. Thank you, gentlemen. Take care. God bless.

#### CHATHAM AND DISTRICT LABOUR COUNCIL

**The Chair:** The next participant is the Chatham and District Labour Council. Come forward, gentlemen. Please have a seat. Tell us your names. Tell us your titles. We have your written submissions and they've been distributed. Everybody has those. Go ahead.

**Mr Derry McKeever:** Thank you very much, Mr Chair. My name is Derry McKeever and I'm president of the Chatham and District Labour Council. With me today is Rick Kitchen and he's the recording secretary of Canadian Auto Workers, Local 127, in Chatham.

I'm going to stray just a little bit from our written text to let you know, and I think it's important to know it, that we are both shop-floor workers and every day we hear what the working people in our community have to say. We work in different shops in our community and we represent some of the ideas and issues they want us to bring to you.

We would appreciate it in the future, if it's possible, that you might have these hearings on Fridays so that those who drive from further distances might have some time to spend with their families, and those who work every day on the shop floor might have a little extra time off once in a while.

The labour council we represent has 26 local unions affiliated and these locals are made up of amalgamated and single-unit locals of national and Ontario-based unions. The labour council has around 10,000 members and our area of coverage is the county of Kent and the 21 municipalities in Kent county.

We hold the view that had this act been updated under previous governments, the type of very negative campaign being run by those who would not like to see these changes come into effect would not have to happen. It is very difficult for us to understand how these people we support, by using the services they sell or by patronizing

the stores they operate, can be so bitter in their opposition to such minor changes that we feel are not only needed but truly justified in these times of dramatic economic and political upheaval.

I want to stray just a little bit again, before I go to page 2, to say to you that we have had meetings in our community with business representatives. We've met with the Chatham task force on the economy, we've met with business groups that belong to churches and we have asked them, "Does the chamber of commerce represent your views?" They say, "No," in many cases, "they do not represent the views of all businesses in the community." I'd like you to take that into consideration.

Our first area of concern is in the discussion of the purpose clause, which states: "To ensure that workers can freely exercise the right to organize by facilitating the right of employees to choose, join and be represented by a trade union of their choice."

This area really reflects the view held by many in the trade union movement that many more workers, especially women and new Canadians, would have been included in these discussions had the Ontario Labour Relations Act been updated under previous Labour ministers over the past 15 years—an event that we can see clearly did not occur.

We consider the changes, as proposed, to be very timely but not far-reaching enough, and the Chatham and District Labour Council considers these changes to be the very least acceptable for those members we represent.

We firmly believe that agricultural workers and horticultural sector workers should have the right to organize, and we wish to point out to the committee that Kent county has long had a good working relationship between the organized food processing industry and its unionized employees. For many decades we have come to terms in contract areas and our record shows our responsibility. We do not advocate harvest delays and have never allowed food to go to waste on the farm.

The truly needed area of reform is in the horticultural-landscape sector where many abuses of the law happen. We have heard a constant litany of complaints, including summary dismissals, poor working conditions and low pay. There are some employers whose greed for bottom-line results has left employees to find whatever remedy they can, usually the Ministry of Labour or civil law. Obviously these are Employment Standards Act problems, but I know they could be sharply curtailed or reduced if the right to organize was extended to horticultural-landscape workers.

We in the Chatham area are very glad to have a strong group of people working with the United Plant Guard Workers, Local 1956, but some of the problems they have in trying to organize plant guards are real obstacles to forming a union that guards want and need. We believe security guards should be allowed to join a union of their choice, allowing them to be able to choose, which should be their right, the union best able to serve their needs.

The rules now restricting organizing of guards have put great stress on local people who must visit each work site to gather names and addresses and place themselves at

considerable risk of arrest for simply contacting other security people at their place of employment.

#### 1950

We also believe it's a matter of dignity that domestic workers be allowed to determine their own future with the spirit and empowerment that a union can and will give them. Domestic workers need the right to organize now.

The area of organizing on private property has been a real obstacle for the trade union movement for years. When an employer learns of a drive to organize one of the plants or workplaces he calls the landlord, who is very happy to use the law and the police to force people from areas that have massive public traffic. In particular, both indoor and outdoor malls can have places of employment that can be very great distances from public access such as sidewalks and roads. Mall patrons are free to come and go, but legitimate union activity is curtailed. The fairness of these actions is not evident. We must have the same right of access as the public in general.

The Chatham and District Labour Council also wishes to express the view that the use of replacement workers is not a benefit to anyone and that their use must be banned. It will have been made very clear throughout the province that the labour community wants to put an end to the disruptive, violent, wasteful and polarizing effects that the use of replacements workers or scabs can have on a legitimate labour dispute.

How many times have the electronic media shown images of trucks stopped at picket lines, an almost commonplace event? But what you do not see are the people forced, by economic circumstances, to turn to scab work as a last-ditch effort to provide for their families. We believe that proposals to close this area of the OLRA is a solid step in the right direction. We also believe that a person should have the right to refuse to accept work at a struck workplace.

In summary, we echo the thoughts of our affiliated Local UAW 251 in Wallaceburg, Ontario, that the business community would love to see us go to a system that is similar to the right-to-work laws in place in the southern United States that would drive unions out of existence if they could. The statements that some business leaders and business groups have made will take a long time to get over.

We want to work with business to get the provincial economy back on the right track. This legislation will get us talking again and, I hope, working together.

I thank you for the opportunity to speak before you, and I look forward to your questions. I'll turn over the microphone to Brother Kitchen.

**Mr Rick Kitchen:** On behalf of the membership of CAW Local 127 in Chatham I want to thank you for this opportunity to address this committee.

During the past 40 years, Ontario has been a leader in labour law. There have been many changes which have made the collective bargaining process a workable vehicle for unions and employers to arrive at contracts. In recent years, conditions in Ontario have changed. In Chatham we are experiencing extremes of unemployment and plant closures. The result is a highly competitive, unstable job market.



In Chatham we have 50 years of representation by the auto workers' union. In the beginning it was the United Auto Workers, and most recently the Canadian Auto Workers. Over that time, there have been instances of confrontational actions during bargaining. However, for the most part, contracts were settled without work stoppages.

We see the changes to the labour act as a positive step in making workers equal to the business owners. These changes will not give an advantage to either side.

The changes to the purpose clause, in our opinion, give workers recognition for their investment in the workplace. Allowing for fair and expeditious resolution of disputes should be a natural part of industrial or labour relations. Making it part of the purpose of the labour act legitimizes what we already should be practising: the right to organize.

We have heard the uproar about the proposed changes to this section, the threats to run away or not locate in Ontario. It has been our experience that workers who are treated with respect are very difficult to organize. Does this mean that the employers making all the noise want the right to exploit workers and treat them unfairly without intervention? This act came into being because workers were regarded as second-class citizens. Are we being told we should go back to those days?

Recently in our community a farm worker was let go after nine years of seasonal work because offshore workers are cheaper. Were farm workers organized in Ontario, the employer would have an obligation to treat this man with respect. Is that what the uproar is about, employers treating workers like humans instead of machines?

Domestics are, without doubt, the most highly exploited group of workers in our society. Employers take advantage of poor education, lack of language skills and fear to extract from the workers their dignity. A unionized domestic would have the rights and some power to keep her dignity. Is that what scares the chamber of commerce?

Organizing activities and certification process: Keeping in mind that workers join unions to stop exploitation and correct injustices, why would any government make that process difficult? Is it possible that the previous writers of the OLRA had a different constituency in mind when the act was being formulated? We believe that the right to organize is as much the worker's right as the employer's right. Let us explain.

Employers can freely join the Canadian Federation of Independent Business and the chamber of commerce to form an effective lobby. The employers take time during business hours to participate in these and other groups to further their position. The effectiveness of these lobby groups to spread their message of fear can be seen daily in news articles. Is the demise of the world as we know it on the horizon if workers can also lobby?

The list of changes under this section of the act will force employers to treat workers as equals and allow them to determine who will best serve the workers' interests when it comes to working conditions and wages. It will wrestle from the hands of the employer his most powerful weapon: fear. That is why there is an outcry from the employers. They will no longer be able to intimidate workers

into submission. Instead they will be forced to deal with the issues.

Once again, the changes here merely put workers on an even footing with the employers. The proposed changes assist the workers to organize without interference from unscrupulous employers who for years have played number games to prevent unions from being established. In fact, it is fair to say at this point that if the money used to fight union organizing had been used to improve working conditions, the need for unions would be minimal.

Once the employees have made the decision to join a union, the employer has a moral obligation to bargain a contract. Instead, the employers have used first-contract bargaining as a union-busting tool. The most famous example in our area was Fleck. Fleck not only played games at bargaining but used millions of tax dollars to aid in its games. In the end the contract was signed and we all paid for the company's fight.

Use of replacement workers: How many workers will have to be run down? Who will have to die before this province passes legislation to stop strikebreaking through the use of replacement workers? What a dignified name for someone who would take a job from a worker who is exercising the legal right to strike. This practice has to stop now, not after a death nor after a crippling injury—it has to stop now.

Conclusion: We have not addressed all the changes to the legislation in this presentation. We could go farther but it is not our intention to achieve an advantage through legislation. It is our intention to be treated as equals. We invest our lives and bodies into the business and that alone gives us the right to equality and respect.

**The Chair:** Mr McKeever, even with my glasses on I can't read the yellow and black button you're wearing.

**Mr McKeever:** I could bring this button up a little closer.

**The Chair:** Perhaps you could just use the microphone and tell me.

**Mr McKeever:** It says, "Say no to Sunday shopping." I believe you were part of that particular committee. I thank you very much for pointing that out.

**The Chair:** Mr Hope, five minutes.

**Mr Hope:** Thanks, Derry and Rick, for the presentation. As a matter of fact, I know the Chatham and District Labour Council very well. It's a good organization. It has years of roots and dedication to its communities.

One of the areas I want to touch on, Derry, is strike-breakers or replacement workers. I'm just trying to reflect back in my memory. Wasn't it something that caused a lot of devastation in our community when the post office went out on strike and people on social assistance were told, "Either you become one of those replacement workers or you're cut off social assistance?" Do you remember that?

**Mr McKeever:** Yes, I do. I thank you very much for the question. Being a part of that, as a volunteer picketer, I will tell you that the post office, which we all know now spent over \$300 million to try and break the union, and was not successful, set up a secret subpost office in Tilbury,

Ontario. In that post office they tried to sort mail and deliver it to many different communities.

In my volunteer activities, I happened to be at the secret post office—we found out where it was—when they were coming across the picket line. There were three of us on the picket line. I want to tell you that the three people who were driving the trucks through the picket line were instructed to cover their faces. They covered their faces with their shirts, drove out of the substation at high speed, vision obstructed, into oncoming traffic through the picket line. We couldn't stop them; we knew that.

This is one of the examples of the very serious irrational behaviour that some employers use: dangerous to the public, dangerous to the picketers and dangerous to those who are replacement workers. It has to stop. There is no rationale behind it that I think is based on anything that's progressive or positive. That's only one example in our community. There have been many other examples in Chatham and Wallaceburg, and the list goes on and on.

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**Mr Hope:** As you're well aware, the chamber of commerce from Chatham came before us today, made a presentation and painted quite a picture that showed that a number of businesses would leave.

Rick, you're a representative of Local 127. I know we had a confrontation going between Eaton's workers and I've been hearing through this hearing today that it's automatic strike. You made it very clear that you come from the shop floor. To go on strike is one of the toughest decisions to make. Coming from the shop floor, you know that most of our workers live paycheque to paycheque. To lose a week's pay is very devastating, and \$100 doesn't go very far with strike pay.

I notice that the chamber painted a very, as you say, devastating picture of our community as far as the labour itself and its organization is concerned, and they call us "militant." It's been used quite often. I know the Eaton's workers, and I was just wondering if, for the reference of this committee, you could bring to light what those workers had done instead of choosing a strike position.

**Mr Kitchen:** First of all, to go back on David McLean's comments, we in the CAW, because it's part of the labour act, have to hold a secret vote for a strike. I thought Mr Phillips would correct the man from the chamber but apparently he didn't.

At Eaton's it is a very tricky situation because there are two plants in our area, one in Wallaceburg and one in Chatham, one represented by the CAW and one represented by the UAW. You can see there's a conflict right there with management. What they're trying to do is get a cheap contract in Chatham and then go to the Wallaceburg plant and say: "Okay, Chatham settled for 50 cents less. Will you go 75?" They're pitting plant against plant. It's Reaganomics that came up through the United States.

In the CAW, Local 127, usually when we go on a negotiation, we go three months early, and it's not as it has been painted here today that we go in 24 hours before a strike deadline and start negotiations; we go in three months prior, to work with management. There were a lot

of sawoffs, back and forth. The committee did take it back twice. In the end, we settled a good collective agreement, we believe, with the Eaton's workers in Chatham. But their reward for signing that contract was that 250 of them got laid off the following week.

**Mr Hope:** In making reference to the chamber of commerce, I noticed they kind of skidded around the International Harvester—Navistar now—investment that is being made there. I noticed it was bypassed a bit, but I know for a fact that workplace has had some serious problems in the past.

**Mr Kitchen:** Yes.

**Mr Hope:** By the sound of it, the labour-management relationship has taken a different approach.

**Mr Kitchen:** Oh yes; it's 100% different there now. Three months ago, we were going to go bankrupt at Harvester. Now through our labour, management and union—I don't want to say team—efforts to bring the workplace together, we've just been awarded two new truck lines, the 9200, which is probably going to take off and create another 125 jobs in that plant, and the 9600, that will probably create another 100 jobs. We were at 630 Local 127 employees, two months ago; we're up to 926 employees now.

I should have brought the letters from fleet owners, saying that it's because of the workers and the quality that comes out of the Chatham plant, but I forgot them on my desk because we were rushed this morning. We are working with management because, face it, nobody in this room wants to lose a job, and times have changed. You'll see that unions are working together with management. You see it with Chrysler, Ford, GM, Navistar, even in small plants. We're working together because we realize that if the company doesn't make a profit, you haven't got a job.

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**Mr Phillips:** I appreciate the comments. The thing that worries me a lot are the plant closures. In your comments, you indicated that was a major issue for you, particularly in the Chatham area. I watch the plant closure things very carefully, and I realize Chatham's been particularly hard hit. As I understand the numbers on the plant closures in the last 18 months, I think about 70% of them have represented union job losses, unfortunately. I said earlier today that I think the CAW has perhaps been the hardest hit, and as I look at the next few months, I think a quarter of the plant closures are CAW locals.

That leads me to my question. I gather that for the CAW this is perhaps your major issue, the closure of plants. I'm wondering, if that is your major issue for you and your members, what the areas of this bill are that will help you in dealing with that issue. Where are the things in this bill that will come to grips with what I gather is your major issue?

**Mr McKeever:** I thank you for the question. You may be right that it seems publicly that the CAW is the one that is taking the burden of the hit. I don't think that's true. In the last several weeks there have been some corporate rationalizations which include non-CAW, non-automotive—



**Mr Phillips:** The only numbers I get are the Ministry of Labour numbers.

**Mr McKeever:** Well, it might not be there yet. I'm not so sure what the reporting process is through the Ministry of Labour.

**Mr Phillips:** It's August 14.

**Mr McKeever:** Then I'm not sure if they—I don't know if the A & P closing in the city of Chatham is there.

**Mr Phillips:** It's here.

**Mr McKeever:** I don't know if the poultry plant closing in the city of Chatham is there.

**Mr Phillips:** It's here.

**Mr McKeever:** I don't know if the smaller ones in our town—

**Mr Phillips:** There must be 50 or more, in these numbers.

**Mr McKeever:** They probably are. I'll tell you that if you walk down King Street, the main street in the city of Chatham—I know you've been many times to the city of Chatham—it's devastation unparalleled. There are entire blocks of nothing, zero, no businesses at all. I don't think they get reported, because they have 50 or less.

**Mr Phillips:** This is 50 or more.

**Mr McKeever:** As I made very clear in my statements here, I hope and I believe that these changes will allow us to work together with business. I want to tell you that before the changes come into effect, if and when they do come in in their current state, we have taken the initiative in the Chatham and District Labour Council to work with business to change our image in our community. The image goes much further than just one of labour strife or problems between contracts. I think there's a message that must be sent out that we are doing something positive. We're working with the business community. We have a technically proficient, well-trained, educated, literate workforce in our community. We want them back to work.

The business community said something very profound to us on August 13. They said to us, "When high-paying, good jobs come to this community, we make money." We've been saying that to them for many years, that when you have union jobs, you're going to make money and you're going to prosper. They're starting to come around. I believe this act, these changes, will allow us to work together.

**Mr Phillips:** What areas will help the CAW? Just so I can be helpful.

**Mr Kitchen:** I think it will help not just the CAW but the whole community as a whole if you can get in there and organize some of these little sweatshops, "finger factories," as they're called, because people lost arms, legs and fingers there. If you can get in there and get them a decent wage, then maybe they'll create jobs, get people off social assistance, off unemployment, and we'll get back to hiring people in Ontario.

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**Mr Tilson:** I'd like to talk on a subject that I've been asking a number of delegations about, and that is the issue

of the replacement workers. The whole concern that we all have is one of survival. We're concerned with bankruptcies, with job closings, with what's happening in your community with the various industries that are closing.

Should we be looking at legislation that is going to encourage survival for us all, for management, for the union? My question to you is, will a business, generally speaking, depending on the type of business it is—I know the comment that has been coming back when I've entered into this type of debate, and it is particularly the auto industry, is that there are industries that will be able to survive—be able to survive a strike with the passing of this legislation?

If there was a strike now—in fact a strike now or a strike after Bill 40 becomes law, if it becomes law and there are no amendments—the employee will be entitled to go out and get a job. Now it may not be as well-paying a job, but they will be entitled to go out and get a job anywhere, and will. The union will try and help them to get a job to cushion the blow, because strikes are difficult for employees; there's no question about it. In other words, the employee does not have to forfeit his right to work. They will be suffering, but generally speaking they'll be able to pay most of their bills.

With Bill 40 and the banning of the replacement worker, when there is a strike and one is not able to retain replacement workers, the employer won't be able to meet—unless he has unbelievable cash reserves, which in this day and age is most unlikely—his liabilities, whether it's leasing or other contractual matters with whoever.

There will be no cash flow because the business won't be operating. They won't be able to pay the bank. The just-in-time operations, which I know you're familiar with—people will go to other places. Those just-in-time operations have to be met and if they're not met the opposition is going to go elsewhere. The employer forfeits his or her right to work.

My question to you is that of survival. If there's a strike called under all these circumstances that I've described to you, will the employer be able to survive?

**Mr McKeever:** First of all, let me say that's got to hold the record for the longest question that's ever been asked of me in my life.

**Mr Offer:** No.

**Mr Tilson:** You haven't heard these guys.

**Mr McKeever:** First of all, let me preface it by saying that—

**Mr Tilson:** I can do better than that.

**Mr McKeever:** Give me a break. I would have to say that some business people and business groups, and I think you're reflecting that in your comments, are of the opinion that when this labour legislation passes there will be an immediate and total avalanche of certified workplaces. That's not going to happen. That is simply just not going to happen. This is going to take a long, long time. There are good employers in the community. We recognize that. But there are some places that are going to be organized a little quicker than others, I believe, because we haven't had the access.

But I want to talk to you for just a minute about something I don't think you've really touched on. I believe in good citizenship and I believe that with citizenship comes a responsibility by individuals in their community to act as part of that community. This bill, I believe, will instil some corporate citizenship in this province.

I believe those corporations that want to stay here and make some money with us will do that and not fold up and move away as some people have suggested they will. This is not a matter of survival for business. They're going to be here. They're going to make money. They always have made money. These are not good times, but money is still being made. The bill is a positive effect and will instil some corporate responsibility in our communities. Those who want to work with us will stay; those who don't, most of them are gone now anyway.

**The Chair:** Oft-times long questions beget long answers.

**Mr Hope:** Would it be possible for the presenters to forward the letters to the clerk as part of a reference that was made? There was reference made about the quality of work and the worker relationship.

**Mr Kitchen:** I'll bring them over to your office.

**Mr Hope:** Could it be part of the clerk's?

**The Chair:** If you could either take them to Mr Hope's office or mail them to the clerk of the standing committee on resources development at Queen's Park, because they become part of the record, we'd appreciate it.

**Mr Kitchen:** Yes, it saves 45 cents that way.

**The Chair:** Thank you, Rick Kitchen, speaking on behalf of CAW Local 127, and Derry McKeever, speaking on behalf of the Chatham and District Labour Council. Thank you for coming into Windsor this evening. We appreciate it.

**Mr McKeever:** do you think you could send me some of those "Say no to sunday shopping" buttons?

**Mr McKeever:** Yes, I have several left.

**The Chair:** I was going to ask for 74 but I think that's a little optimistic.

#### ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION, DISTRICT 1

**The Chair:** The next participant is the OSSTF. Would they please come forward and seat themselves and tell us their names and titles. We've got your written submission. Please go ahead.

**Mr Mike Walsh:** My name is Mike Walsh. I'm the president of the Ontario Secondary School Teachers' Federation, District 1, Windsor. With me is Dorothy Greenway, who's the president of our staff support branch of the OSSTF in Windsor. Also accompanying us and helping us with the preparation of the presentation are Tom Henderson, the treasurer of the district, and Anne MacNeil, an administrative representative from the staff support branch.

On behalf of the members of my district, I thank the committee for the time to speak with you tonight. OSSTF District 1 represents four Ontario Labour Relations Act bargaining units employed by the Windsor Board of

Education, totalling 450 employees. These include the following groups: professional student services personnel, who are psychologists, psychometrists, speech pathologists and social workers; the staff support branch, consisting of office, clerical, educational associates and technical employees; continuing education instructors, teaching English as a second language, adult basic education and general interest courses; and also a group of occasional teachers. This represents about half of the total District 1 membership, the rest being teachers covered by Bill 100.

All of the OLRA groups were organized within the last five years. Our experience in this organization and the attempt to get first contracts for these groups is the basis of most of our presentation this evening. It's our expectation that the OSSTF provincial body will get an opportunity to speak to this committee and will make representation on each and every aspect of the bill. We've tried to restrict ourselves to those things we've had some experience with.

In our opinion, the organizing process was stalled by shortcomings in the present legislation. These delays occurred despite the fact that the Windsor board had been dealing with unionized employees for a number of years and so didn't have any sort of pre-set opposition to unions per se.

For example, although the organizing drive for the continuing education instructors began in early 1989, they did not get their certificate to bargain until September 1990. No first contract was won until April 1992, over a year and a half later. In our experience, the average length of time between organizing a unit and getting a first contract has been more than two years. If our society accepts that justice delayed is justice denied and eight months is too long to wait for a criminal trial, then a wait of more than two years for a first contract is just plain wrong.

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We applaud the government on the new bill's purpose clause which would permit the Ontario Labour Relations Board to interpret the law so that workers can more easily form a union. The power of the OLRB to combine bargaining units with the same employer and to allow part- and full-timers to be members of the same bargaining unit should eliminate some of the delays our district experienced in getting certification.

However, some delays could still occur under the new bill because the employer does not have to give the union the exact number of employees in the bargaining unit and their job descriptions. Without this information, the union does not know who's in the unit and who's not and whether they've met the 40% membership enrolment.

If we had not gotten voluntary recognition for the staff support group, we would have run into big problems in getting a certificate because of a large number of employees the employer knew the existence of that we didn't. It was fortuitous that we got voluntary recognition, otherwise we may not have gotten a certificate. We might still be trying to get one for the staff support branch.

Our recommendation then is that employers be required to provide, at the time of certification, a list of employees and their job descriptions to the union seeking to organize a new employee group.



At this point I'm going to ask Dorothy Greenway to make a further part of the presentation. Then I'd like to come back on to conclude. Dorothy can give you firsthand experience on the difficulties of getting a first contract. She's the president of our largest OLRA group, the 280-member staff support branch that had to go on strike to achieve a first contract and was presented with the difficulty of the use of replacement workers, strikebreakers.

**Ms Dorothy Greenway:** As president of the support staff branch of the OSSTF, District 1, Windsor, I thank you for the opportunity to speak before you today on behalf of this bargaining unit, which has very recently experienced some of the problems being addressed by the proposed changes to the Ontario Labour Relations Act, especially the use of replacement workers or strikebreakers during a legal strike.

I would like to commend the NDP government for tackling this controversial but long overdue updating of the Ontario Labour Relations Act. These proposals deal with fairness and balance in the collective bargaining process and can only result in an improved working environment for both employers and employees. Labour relations will finally move into the 1990s where continual confrontation is replaced by greater cooperation and partnership, which we feel will promote the most enabling, creative, innovative and productive working environment.

In addressing section 32 of the bill, section 73.1 of the act, in our own case, after negotiating for 18 months, we were forced to go out on strike when our employer offered us a financial package far less than that provided for the non-bargaining-unit employees. They threatened to divide our unit into two groups according to our two certificates although we had always negotiated from the very beginning as one bargaining unit.

During the week prior to our taking strike action, our employer instructed members of our bargaining unit to train temporary and non-bargaining-unit employees on the duties of their jobs. This action by our employer greatly inflamed the already tense situation. We received calls from our members who were frantic and distraught at being made to prepare people to take over their own jobs in the event of a strike. Our members felt hurt, betrayed and that our employer had absolutely no respect for them. They were extremely frustrated by having to work under these conditions. The emotions evoked caused unbelievable stress for these employees.

Our employer also brought in replacement workers from outside agencies, and these people, of course, crossed our picket lines. Anyone who has not been through the devastating experience of having to take strike action, which is in itself a very frightening prospect, and then standing by and watch as outsiders, along with people with whom you used to work side by side, cross your picket line to go in to do your work, to take over your job, cannot fully understand the terrible feelings of loss, betrayal, hurt, absolute frustration, resentment and finally unbelievable anger that comes to the front because of such actions.

The majority of our members are women, who are used to settling problems without violence, but had our sanction lasted much longer, I don't know if violence

might not have entered the picture. We tried very hard to avoid the possibility of violence, but the tension was mounting daily, along with the frustration. Fortunately, after 26 days of strike action, we came to an agreement with our employer and any further danger in this area was averted.

In our board, there have been sanctions initiated over the years on several occasions by other bargaining units and never, ever before were replacement workers brought in. For the first time in the history of the Windsor Board of Education in its dealings with its employees, the board chose this predominantly female bargaining unit, who were negotiating their first collective agreement, to discriminate against by using replacement workers.

This sent a very clear message to our members that we were considered second-class citizens and that our contribution as employees was not really valued by this employer. These tactics fostered much disappointment, disillusionment and bitterness, and it will take a long time to build a really good, trusting relationship with this employer again.

The new reality in the workforce today, with the emerging number of women entering daily, should signal to employers the need to take women seriously and value them as equal partners in the workforce. Women want the same things from employment that men do: fair payments for their efforts, fair and equitable treatment by their employer, a safe and hospitable work environment, to be valued for their contribution, and fair and equitable access to promotable positions.

By using temporary employees to do our jobs while we were on strike, our employer placed those also predominantly female employees in a terrible position. They felt that if they refused to do the replacement work and cross our picket lines, this employer would not call them back and their hopes of eventually getting permanent positions would be crushed. Some of these people had worked on a temporary basis for this board for several years. These people were caught in the middle of this conflict.

Although we sympathize with the situation the temporary employees were in, we had nothing to do with putting them there. Our employer placed them in the untenable position of being "damned if you do and damned if you don't." Our bargaining unit members lost a great deal of respect for our employer for dealing with all of us in such an unfair and demeaning manner.

The use of replacement workers or strikebreakers is a tactic that causes far more harm than good. It builds walls of resentment and distrust between employees—bargaining and non-bargaining—and does absolutely nothing to foster cooperative labour-management relations.

It has been five months since the end of our strike, and I can tell you that although we are encouraging members to look forward and work on building a cooperative working environment, the wounds are deep for many and will in some cases take years, if ever, to heal.

The use of replacement workers during our sanction was devastating to employees who for the most part had given over and above the call of duty for many, many years. Our members take their job responsibilities very

seriously and function as an integral part of the educational team. They genuinely care about the teachers and students in this system and do their best to help them in any way they can. At least this was the situation before replacement workers were used by our employer.

Many employees now feel that they are not valued at all by this board and that they have been used and taken for granted for years and just expected to give and give without any understanding or recognition of their efforts. Many are rethinking their dedication to an employer who would treat them in the manner it did during the strike. Strikes are very difficult and are undertaken only as a last resort, but the use of replacement workers or strikebreakers is the most devastating tactic for employees to cope with and it undermines the collective bargaining process and the employee-employer relationship.

We are also concerned with the restriction in the proposed amendments to allow the use of replacement workers where the union has received support for a strike from less than 60% of those participating in a secret strike ballot. If a bargaining unit gets the 51% necessary for a legal strike, that should be all that is necessary to restrict the use of replacement workers. Once a legal strike is operative, why should employees have to prove anything further? Having complied with the percentage requirement for a legal strike should be enough. Democracy is 50% plus one.

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We recognize the fact that section 35 of Bill 40, section 81.2 of the act, addresses the issue of voluntary recognition for certification by proposing protections for employees in a bargaining unit between the date of certification and the signing of the first collective agreement. Access to the just-cause protection while negotiating a first contract is extremely important and necessary. It discourages employers from retaliating against employees and from treating them in an unfair manner during this vulnerable time period.

We certainly hope these proposals will ensure that all bargaining units that have been granted voluntary recognition by employers will be covered by all the provisions of the act. This would be a great improvement.

Our members welcome provisions under section 21 of the bill, section 43.1 of the act, which provide access to the just-cause clause provisions to all bargaining unit members upon certification of a bargaining unit prior to achieving a collective agreement. This too is a major advance which we applaud.

As a bargaining unit with voluntary recognition from our employer, we know that the amendments above, which are major improvements, will go a long way towards cementing the relationship between the bargaining unit and the employer.

We are very hopeful that time and a real attempt towards cooperation and fairness on both our employer's part and ours will resolve our problems and provide a more hospitable and productive workplace for us all.

The proposed amendments to the Ontario Labour Relations Act will do much towards that end by removing the need for confrontation to resolve problems and substituting instead a cooperative approach to problem-solving that

will streamline the mediation process and reduce conflict in bargaining.

By eliminating the use of scab labour in legal strike situations, the legislation will overcome the possibility of employers some time in the future hiring replacement workers to permanent positions in the bargaining unit that was previously on strike and whose picket lines these replacement workers crossed. The hiring of replacement workers to permanent positions would further damage the employer-employee and employee-employee relationships. Therefore, legislation prohibiting the use of scab labour in legal strike situations would most definitely go a long way towards avoiding acrimony and assisting to build harmonious relationships within the working environment.

In conclusion, we urge the panel to support the recommendations of this bargaining unit to drop the requirement of a 60% strike vote before the use of scabs by the employer can be prohibited; 50% plus one is fair.

We also urge this government to adopt Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment, because the proposals are fair, long overdue and necessary if the relationship between employers and employees is to grow and prosper. There will have to be vastly improved cooperation between employers and employees in the future if we hope to meet the many difficult challenges that lie ahead for all of us to provide adequately for the needs of all of our workers. We have a very big job ahead of us and we will only accomplish it and be successful if we work together side by side, hand in hand. These proposed amendments will help to make this possible.

Thank you very much for the opportunity to voice our opinions and concerns. Again, we commend you for your efforts on behalf of fairness and equity in the workplace. If you have any questions, I will do my best to respond.

**Mr Walsh:** At least 90% of our newly organized members are women. On average in Ontario, it's our understanding that women make approximately 65% of the wages of men. Men far outnumber women in union membership and it's our belief that if more women joined unions, the wage gap could be narrowed. In other words, we see this new bill as an effective form of pay equity legislation.

We congratulate the government on its efforts to improve workers' access to union organizing and the attempt to address the imbalance of employees' rights and employers' power. In particular, we urge inclusion in the final bill of the clauses that you already have in Bill 40 that we see here: the purpose clause; the restrictions on the use of replacement workers; the improved first-contract rights; the faster adjudication processes; the provision for full and part-time workers to be in the same union.

From our experience in organizing and attempting to get first contracts for new groups over the past five years, we would suggest the inclusion of the two things that were mentioned by Dorothy; namely, the employer to provide a list of employees at the time of certification, and two, the restriction on the use of replacement workers in all legal strikes.

Finally, no discussion is complete without a comment on the vitriolic and misleading campaign being waged by



some against the bill's passage. The crowning insult appears on billboards around Windsor and intends to be a serious comparison between Karl Marx, Lenin and Premier Rae. The caption reads: "It didn't work in the USSR, why Ontario, Bob? Stop proposed labour act reforms today."

What didn't work? Progressive social policy? Fair labour laws? Anyone moderately acquainted with life in the Soviet Union knows that there was no such thing as a free trade union or collective bargaining. One of the marks of a democratic society is the right of workers to freely organize and join trade unions.

At a time when the federal government seems bent on attacking the social safety net by cutting transfer payments and slashing programs, it's refreshing to see a government come up with a progressive law that achieves a better deal for the average worker. Our district supports this bill and asks the committee to consider the few changes that we believe will improve it.

**Mr Phillips:** Just a comment on your brief: I'm not sure whether it's Mr Walsh or Ms Greenway. You talk about the federal Tories, and I'm no friend of Mulroney's, but you should be aware that the federal government's transfers to the province this year have gone up almost 20%, \$1.4 billion from the federal government to the provincial government. Transfers to the school boards have gone up 1%, so the province gets \$1.4 billion more from the feds and has transferred to schools, hospitals, colleges and municipalities about 10% of that. I just make that observation for you because, as I say, I'm not defending Mulroney, but I was surprised the OSSTF didn't comment on the transfer payments from the province to the school boards.

My question really is along the replacement worker issue. I understand your point in here. School boards, as we all know, depend on a vibrant private sector for the tax base. I used to be chairman of the Metro school board, so I have a little bit of appreciation of this. Some of the members' concerns are that there are certain businesses that if they shut down even for two weeks are finished for all intents and purposes.

I think there are some newspapers in competitive situations that couldn't survive any extended shutdown. There are some retail businesses that couldn't survive any extended shutdown. There are some manufacturing operations that couldn't survive any extended shutdown. Recognizing that, does the OSSTF have the same view on replacement workers in those industries? Are you suggesting that they be banned totally, so that during a strike the organization must shut down? Is that your view, on the OSSTF?

**Mr Walsh:** Yes. The OSSTF position is that there should be no use of replacement workers in a legal strike situation in any circumstance. In the situations that you suggest, let's assume, for example, that a retail store experiences a strike, and because we accept your position, the store is closed as a result of that strike.

**Mr Phillips:** That is your position?

**Mr Walsh:** No, that's your position and I'm accepting it for the purposes of argument right now.

**Mr Phillips:** I just want to clear it up. I thought that was the OSSTF position, that the enterprise should close during a strike.

**Mr Walsh:** Let me just continue with the scenario. If it's not clear at the end, perhaps you can come at me again. If as a result of the strike the store is forced to close, then what happens to all those employees? They're all out of a job. They're all on the street. They have a job no more. It would be insanity for any organized group and the representatives of any union to be putting the employer in a position where it puts all the employees out of a job. If there are circumstances where certain enterprises cannot stand a strike, then the employees can't stand the strike either, and so there's pressure on both sides to come to a collective agreement without resorting to a strike.

Strikes are in fact the breakdown of the negotiation process. Most negotiations end without any resorting to a strike, but there's a pressure on both sides, even in the circumstance that you've posed.

I challenge also the premise that you put forward. It seems to me that there are many enterprises now that even without being able to use strikebreakers, are going to be able to conduct business almost as usual.

In fact, even without strikebreakers, many of the operations of the school board were quite unaffected by the strike and they had great difficulty bringing pressure on the employer.

There are many businesses which currently use equipment that needs very few workers, and a few people, like the superintendents in the plant and the management, can keep the plant going for a very long period of time.

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**Mr Phillips:** Okay, that's helpful. It's a different position than the previous group, and I understand that.

On the transfer payments, did you have a comment on that?

**Mr Walsh:** My understanding is what I said in the brief, which is that the transfers to the provinces had been reduced, that the share Ontario got was considerably cut, and that as a result of that, the provincial government made cuts to each of the areas: health, education and social services.

I should say, and I think it's a fair comment by you, that for us to appear uncritical of this present government for its increase of 1%—I am critical. I think they should have increased the payments to education far greater than that. They made an undertaking when they came to government that they were going to increase the numbers up to 60%.

**Mr Phillips:** I remember that.

**Mr Walsh:** It's an undertaking that I'm not making issue with here because it's not on the agenda, but you can be sure that in a couple of years' time, we will make an issue about that.

**Mr Phillips:** Since you mention it, you might want to look at some of those numbers, anyway.

**Mr Offer:** I have a question on your brief. On page 5, you speak to the issue of democracy being 50% plus one, and it's quite clear.

Actually, on your first page, you speak about combining bargaining units of part-time and full-time workers. That's now allowed under the legislation. Part-time workers in a part-time unit, with full-time workers in a full-time unit, can be combined. However, the issue is that it doesn't require a majority of each of the units to combine. If there are enough workers in the full-time unit who wish to take over the part-time unit, that happens. It's clear under this legislation that it happens. So my question is, keeping in mind page 5 of your brief where democracy is 50% plus one, would you support an amendment that would state that the combination of part-time worker unit and full-time worker unit could only take place if a majority in each unit wanted it to happen?

**Mr Walsh:** On the surface of your question and your observation, I guess the answer would be yes. My problem is that I haven't looked at that particular clause in detail, so I'm hesitant to give you a formal OSSTF position on it because I don't know what it is.

I know that in our own experience, we were attempting to organize the staff support branch, and we wanted all the employees. We were happy to take the part-timers. It was the school board that didn't want them to be included, and so presently they are an unrepresented group. I know among teachers, who are not covered by this bill I understand, in similar bargaining circumstances there isn't any problem bargaining for both full- and part-time under that.

But as to your specific question, I can't give you any kind of official answer. On the surface of what you've said, it should be a majority.

**Mr Tilson:** Your comments at the end of your presentation, specifically on page 7, have really echoed what has irked the Premier. He's called the billboards "billboard politics," and whether you like them or whether you don't like them, the fact of the matter is it's quite clear from presentations that are given at this committee, comments that are made in the press, other places, other presentations that are made throughout this province, that business is very frustrated with this specific bill.

In fact they're saying that what has happened is that this bill specifically has created the perception that Ontario is a very, very hostile place to do business with, that this bill is going to create a high cost and a very hostile place to do business. Whether you agree with that or whether you don't agree with that, the fact of the matter is that's a perception that is coming forward in the press, that's coming forward at this hearing.

My question to you is, because you're educators, what recommendations do you have to this government to develop policies that will enable this confidence in investing in this great province to be regained?

**Mr Walsh:** I guess the first thing would be to pass this bill quickly and put it into practice, so that people could see that the fears that the business community has expressed were unfounded and that in fact this will lead to a far better bargaining climate. It will lead to far quicker

resolutions of differences. It seems to me when you have employees who don't have burrs under their saddles because they've got grievances that are still sitting out there six months and 12 months down the line, those issues will be settled quickly and we should see improvements in productivity as a result of the passage of this bill.

In terms of the hostile environment that has been created, I believe that the hostile environment perception has in fact been deliberately created by the corporate community and it's a most unfortunate thing that they've done. You can simply take a look at the vitriolic kind of campaign that's involved in setting up pictures of Karl Marx and pictures of Lenin and putting Bob Rae in the same circumstance. Just putting those things together and suggesting that this bill is moving towards a Soviet style or communist style of government is so outlandish, it's incredible.

I would think, sir, that you would want to distance yourself and your party from such billboards and put that clearly out there, because the right to organize and the right for people to freely associate is a freedom that's expressed in democracies. It's a freedom that this bill moves towards. It's an expression of democratic action. It's an expression that improves the lot of the bulk of the population.

It's not surprising that business in fact is losing some of its power under this bill. I might remind you, when property rights were what you needed to have to have a vote, they worked strongly against the labour unions when the labour unions were trying to get the vote for the ordinary worker; again, it was an attempt to not lose some of the power.

Here again, we've got some loss of power involved and there's some fear of it, some genuine fear from some smaller businesses and I think some less genuine fear from the likes of the multinationals that have been putting much of the big money up behind this campaign.

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**Mr Tilson:** The business people of course are saying, "Well, we're concerned, but we're also repeating what is being told to us by investors from within and outside the province of Ontario, from outside the country, as far as investing in this province."

However this climate was created, the fact is it's been created. There's been an inadequate consultation process—and I know that Ms Murdock will be on the edge of her chair to deny that fact—but the fact is that delegation after delegation is coming to this committee and simply saying, "There's been inadequate consultation from the business community to deal with all of these matters," and that the government isn't listening to all of the facts and the fears that are being put forward by the business community.

Is it a win-win situation, or should it be, "Maybe we should have a tripartite review of business, government and labour"? This has not taken place on this very important bill.

**Mr Walsh:** You are a far better judge of the amount of consultation than we are.

**Mr Tilson:** But that is the frustration that they're putting forward, the frustration that you're seeing. Sure, there are tactics that unions use that I don't like; there are tactics



that business uses that I don't like. But the fact is that they're very frustrated; that's the expression that they're putting forward, rightly or wrongly.

**Interjection:** Where do you think labour went for years?

**Mr Tilson:** Mr Chairman, are you going to continue to allow the applause and outbursts from this audience?

**The Chair:** Yes. Go ahead with your question.

**Mr Tilson:** No.

**Mr Lessard:** Thank you both very much for your presentation. I especially want to thank Dorothy Greenway for giving the very passionate account of a personal experience. I think it's important for us to hear firsthand personal experiences when we are involved in considering legislation.

You mentioned during the dispute in organizing that the employer was threatening to divide the unit into two groups, and you didn't explain that. I wondered what the reasoning would have been behind that.

**Ms Greenway:** We had two certificates: one for the office, clerical and technical group and one for the educational associates group. We wanted one bargaining unit with all of those people as one group. The board of education was aware of that, and it negotiated with us right from day one as one bargaining unit. But when we came to an impasse, that was one of the things where we had trouble. They threatened to split that once again into two groups, and we would have to negotiate as two groups. We would have two collective agreements, and that was one of the issues in our strike.

**Mr Lessard:** I think many people who might be unfamiliar with the labour movement might have this image of a sort of uncompromising, militant, macho type of group. What we see now is that a great many women are entering the workforce, and you've indicated that in your brief. I would suggest, and that's what we are suggesting, that this is part of the reason we need to make some amendments to the Labour Relations Act, because there have been those changes in the makeup of the labour force.

In your example, you've indicated some of the problems that you perceive you had because you were a predominantly female bargaining unit and as such probably found it very difficult to finally reach a decision to eventually go out on strike. I wondered whether you could outline some of the considerations you may have faced, because we're presented with the prospect by the opposition that if there isn't that threat that replacement workers can be used, then employees might just go on strike at the drop of a hat because they can bring employers to their knees.

**Ms Greenway:** Definitely we were petrified. We had been negotiating for two years by the time we got our collective agreement. Getting involved with the union and organizing in the first place is frightening. It was a very difficult process. By the time we organized and then went through preparing a brief and then the negotiations that followed that—and we negotiated a long time—it was a very difficult decision to make, to go on strike, and our members had never experienced anything like this before, ever.

Consequently it was not a decision that we made very easily. We made a last-ditch attempt before we finally did; we had our strike vote and we tried one more time to go back to the table because we did not want to go on strike. Strike was not what we wanted. We wanted a settlement and we wanted to get back to the table, but we could not get them to talk to us again and we eventually did have to go on strike. But it was definitely a last resort because we were very afraid of it.

**The Chair:** I want to say thank you to Mike Walsh and to Dorothy Greenway, who are here this evening, on behalf of the Ontario Secondary School Teachers' Federation, District 1. We appreciate your taking the time to come in. We're sorry that you were scheduled late in the evening. As you undoubtedly know, large numbers of people wanted to participate in these hearings. Only a fraction of those people who applied were called upon and we're grateful to all of those throughout the day and throughout this evening. We thank you for coming here and sharing your views with us. Thank you, people.

**Mr Walsh:** Thanks very much.

**The Chair:** There are a couple of matters. I do want to thank the committee members for their cooperation and of course thank Pat Girouard, who is here with Hansard; Anne Anderson, who is the legislative research officer, works very hard; Todd Decker, the clerk of the committee—

**Mr Phillips:** He works hard.

**The Chair:** He works very hard and very professionally. David Augustyn, a co-op student who lives on Port Robinson Road West in the city of Thorold who's working with the Clerk's office; the interpretation services, Sylvie Soth and others; and the people who handled the electronics, Teresa Jodoin and today helping her, Joe Andriaccio. These people are skilled, talented, professional people who make this committee's work much easier. Mr Offer?

**Mr Offer:** Mr Chair, as you will know, I informed you earlier that I wanted to bring forward two matters for ministry staff to clarify in as short a period of time as possible. If I might at this point, I'd like to present those questions to them.

We've heard a great many submissions on the issue of membership lists. I would like to ask the ministry staff if they could inform this committee, as soon as it is reasonable in the circumstances, whether, as a result of the purpose clause—I won't go into the purpose clause—and the expanded powers of the arbitrator, the argument can be made in front of the board now with some degree of certainty that the membership lists are to be provided, keeping in mind the purpose clause of the legislation.

The second one deals with the very same issue, the very same matter. The wording of the purpose clause talks about encouraging the process of collective bargaining so as to enhance the abilities of employees to negotiate with their employer for the purpose of improving their terms and conditions of employment. My question on that basis is, would there be, with some reasonable degree of certainty, the opportunity to argue by a union representative that employers should provide and make known their confidential financial

statements, keeping in mind the wording of the purpose clause?

**The Chair:** Are there any other matters?

**Mr Brown:** Just on a brief point of order, Mr Chair: I found the proceedings today enjoyable and interesting, but I share Mr Tilson's view that these have been at least a little bit unusual from my perspective in that there has been a large amount of participation from people who were not members of this committee or presenting to this committee.

In my experience at committees, which has lasted, I guess, about five years, this is highly unusual procedure. I'm just not sure where the precedent comes from for permitting this. It's always been the view, at least I thought it was the view, that this is an extension of the Legislature and the rules that applied in the Legislature shall apply here.

My concern is that there may be some presenter who comes before this committee who might find a crowd unfriendly to whatever his particular point of view is and might find himself intimidated. I don't think that happened today and hopefully it won't happen in the future, but the idea that it may happen defeats this committee's purpose and I would just ask that you consider that.

**The Chair:** Your point is well made.

**Mr Hope:** On that same point, Mr Kormos—

**Mr Lessard:** Mr Chair.

**Mr Hope:** Or Mr Chair.

**The Chair:** I've been called worse.

**Mr Hope:** Not being a member of a committee of the Legislature but an active participant in this community, with a number of government presentations for the past five years, it is not uncommon for both employers and employees to make viewpoints heard, because as we reflect in southwestern Ontario, sometimes they forget about us through a consultation process. I think, for Mr Brown's purposes, it is not unusual, in previous governments or in this one, to have participation, which only shows that it's a more democratic process of allowing people to consult.

**The Chair:** Mr Brown and before him Mr Tilson had clearly been speaking not to the participation of people as formal participants but to the participation of onlookers, as I understand it. If I'm wrong about what they were addressing, they'll correct me. Go ahead, Mr Brown.

**Mr Brown:** That's precisely the point. I can recall in this community some years ago participating in public hearings such as this, only they were held at the Cleary Auditorium, I believe, on Bill 162, where the present esteemed Treasurer of this province was presiding in the chair of this very committee and where he admonished the group on several occasions not to have any participation, for the very reasons I've outlined, and it in fact did not happen. I think there's ample precedent and ample reason for the traditions of this Legislature to continue.

**The Chair:** I hear very well what you've said and I've paid careful attention to it. Any other matters? We are adjourned until 10 o'clock tomorrow morning here in this same place. Thank you, people.

The committee adjourned at 2103.











**Also taking part / Autres participants et participantes:**

Lessard, Wayne (Windsor-Walkerville ND)

\*In attendance / présents

**Clerk pro tem / Greffier par intérim:** Decker, Todd

**Staff / Personnel:**

Anderson, Anne, research officer, Legislative Research Service



## CONTENTS

Tuesday 18 August 1992

<b>Labour Relations and Employment Statute Law Amendment Act, 1992, Bill 40</b> . . . . .	R-577
Windsor and District Chamber of Commerce . . . . .	R-577
Larry Bannon, board chairman	
George King, chair, labour relations committee	
Windsor and District Labour Council . . . . .	R-581
Gary Parent, president	
Nick LaPosta, secretary-treasurer	
The Bay . . . . .	R-586
Jerry Nicholls, human resources manager, Ontario	
Gary Hills, store manager, Windsor	
CAW Canada . . . . .	R-590
Basil Hargrove, president	
Chatham and District Chamber of Commerce . . . . .	R-595
David A. McLean, president	
Tom Wells, first vice-president	
Greater Windsor and Essex County Hotel and Motel Association . . . . .	R-600
Charles Kobryn, president	
Zarco Vucinic, president, Chatham Hotel Association	
Colasanti Farms Ltd. . . . .	R-602
Joe Colasanti, president	
Terry Colasanti	
Aids Committee of Windsor Council . . . . .	R-609
Steve Lough, executive director	
John McArthur; Edward Baillargeon . . . . .	R-613
Chatham and District Labour Council . . . . .	R-618
Derry McKeever, president	
Rick Kitchen, recording secretary, CAW Local 127, Chatham	
Ontario Secondary School Teachers' Federation, District 1 . . . . .	R-623
Mike Walsh, president	
Dorothy Greenway, president, staff support branch	

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R-24



Ontario

R-24

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## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Wednesday 19 August 1992

### Standing committee on resources development

Labour Relations and  
Employment Statute Law  
Amendment Act, 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Mercredi 19 août 1992

### Comité permanent du développement des ressources

Loi de 1992 modifiant des lois  
en ce qui a trait aux relations  
de travail et à l'emploi



Chair: Peter Kormos  
Clerk pro tem: Todd Decker

Président : Peter Kormos  
Greffier par intérim : Todd Decker

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## **Table of Contents**

Table of Contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

## **Index inquiries**

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## **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

## **Renseignements sur l'index**

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday 19 August 1992

The committee met at 1000 in the Hilton International, Windsor.

### LABOUR RELATIONS AND EMPLOYMENT STATUTE LAW AMENDMENT ACT, 1992

### LOI DE 1992 MODIFIANT DES LOIS EN CE QUI A TRAIT AUX RELATIONS DE TRAVAIL ET À L'EMPLOI

Consideration of Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment / Loi modifiant certaines lois en ce qui a trait à la négociation collective et à l'emploi.

### ONTARIO HOSPITAL ASSOCIATION

**The Chair (Mr Peter Kormos):** Good morning. It's 10 o'clock. We're ready to resume these hearings. The first participant is the Ontario Hospital Association. I want to tell people that there are French-language translation services being provided. The receiving devices are available to you if you want to take advantage of those. We have a half-hour for this presentation. Please try to save the second half of the half-hour for questions, dialogue and exchanges. Go ahead, please.

**Mr James Bartlett:** Thank you, Mr Chairman. I'm James Bartlett, chairman of the OHA human resources committee. We're glad to be here today as a provincial organization to make our presentation in Windsor. It also helps me, because I live in Windsor.

I would like to start, sir and members of the committee, by advising you that the Ontario Hospital Association represents 223 hospitals employing approximately 160,000 employees, of whom approximately 108,000 are represented by one of 18 unions.

I would point out that there were only 16 unions with representation rights in the hospital industry at the time of our submission last January on the discussion paper. At that time, that submission was made by Mr Timbrell in Kingston.

Collective bargaining for the hospital industry is governed by the Hospital Labour Disputes Arbitration Act and, as a result, the strike-lockout sections of the Labour Relations Act are not applicable to us and will play no part in our presentation as they are not relevant. As the committee well knows probably, in place of the strike-lockout, we have a binding arbitration procedure.

I have with me today Mr Brian Siegner, the vice-president of OHA's hospital employee relations services, and Mr Paul LeMay, the managing director of hospital employee relations services.

Not only am I able to appear here in my capacity as the chair of the OHA board's human resources committee, I am also a trustee of the Salvation Army Grace Hospital here in Windsor and I am a practising labour lawyer with

extensive experience in the private sector throughout southwestern Ontario. In my alter ego I am compelled to comment on the overall thrust of the proposed amendments in the strike-lockout sections.

In brief, I would echo the concerns expressed by many employers. The proposed limitations on the use of replacement workers seriously distort the balance of power between employers and unions. Sadly, from my experience as a labour lawyer, I think the beneficiaries will likely be non-union employees, border states and, in some cases, low-wage areas in North America remote from Ontario.

However, members of the committee, my primary purpose today is to present to you our members' views of the proposed amendments. Mr Dennis Timbrell, our president, did present to the Minister of Labour last January the OHA's response to the discussion paper on the Labour Relations Act, and that appears at tab 3 of our presentation. He also wrote to the minister on July 14 outlining our six major concerns with the proposed amendments, and his letter to the minister appears at tab 2 of our presentation.

In addition to asking that you seriously consider our position as set out in those documents, I appreciate the opportunity of being able to speak with you in the committee personally today.

Dealing with specific concerns, we would like to deal first with the proposed purpose clause. We strongly feel that it should not be in the body of the act itself. As proposed in the discussion paper, it should be a preamble to the act. There should be no thought in anyone's mind that the preamble is or is intended to be a substantive provision to be used in interpreting other sections of the act.

For example, there should be no possibility that anyone would take the position that the purpose clause should be used to determine whether or not an employer has bargained in good faith because the employer has not agreed to improve wages and/or benefits. Indeed, the concept of "improving...terms and conditions of employment" should be replaced with the concept of "negotiating" appropriate terms and conditions.

Further examples of why the purpose clause should not be in the body of the act are found in the proposed section 2.1, paragraph 3, "ongoing settlement of differences." What does that mean? Do the parties go to the board to determine the issues in dispute? What does the term "fair," as used in the proposed section 2.1, paragraph 4, mean in law?

Our second point in our presentation today deals with bargaining unit definitions. Simply put, neither employers nor unions are well served by fragmented bargaining units. At the same time, both need to have some certainty as to how the labour board will define a bargaining unit.

In the hospital industry, the board has long recognized that the interests of part-timers are different from those of



full-timers. Against the backdrop that two thirds of the employees in the hospital industry are represented by a union and that in very nearly all cases where there is a full-time bargaining unit there is also a corresponding part-time unit, it is our assessment that the proposed changes will do three things:

1. They will encourage certification of fragmented groups. I would ask you particularly to note the change in the Ontario Labour Relations Board practice already from the Stratford decision in the mid-1970s, which stands for relatively broad groupings of hospital employees, to the recent Mississauga decision regarding the Practical Nurses Federation of Ontario, where the labour board certified a narrow registered nursing assistant group, and this was even before the proposed amendments were introduced.

2. Once a union has certified a number of fragmented groups at the same hospital, it will then be able to apply to the labour relations board to have the board combine the units for the purpose of collective bargaining.

3. Further, they will result in the combination of full-time and part-time units, with the resultant subjugation of the part-time community of interest to that of the stronger full-time group. Make no mistake. The proposed changes are not in the interests of part-time employees. According to the Ministry of Health statistics, 56,000 of the 160,000 hospital employees are part-timers.

We would like to comment also on the provisions regarding the discharge of probationary employees. We disagree with the application of the just-cause standard to this group of employees, and with the reverse onus for bargaining the standard. Again it does not meet the practical, day-to-day needs of the employer, the current employees or the prospective employees.

If you proceed with this amendment, that is, to impose a just-cause standard on probationary employees unless it can be negotiated out from the statute, at the very least it should be clear that where subsisting collective agreement provisions deal with the release of probationary employees, those collective agreement provisions would govern unless altered by negotiation—a form of grandfathering, I guess.

Next in our presentation today we deal with expanded powers of an arbitrator. As you will note from our earlier submissions, we are not opposed to the proposals in this area. However, we do not believe that a complainant should be able to bring a matter under the collective agreement where the arbitrator will have the power—and we've noted the article there—"to interpret and apply the requirements of human rights and other employment-related statutes..." and also have access to any other forum on the same, or essentially the same, complaint.

We have taken this position before the task force on the Human Rights Code. In their report they appear to have generally agreed in principle with this idea; that is, we don't wish to take the choice away from the complainant, but once having made the choice, only one forum should determine the complaint.

1010

As a footnote to that, it is clear from the proposed amendments that there is a preference for the use of a

single arbitrator rather than a three-member board. However, under the existing act, virtually all the collective agreements in the hospital industry provide for three-member boards unless the parties otherwise agree.

We believe it would be helpful for the act to clearly state that those provisions continue in force unless changed through negotiations. Should either party prefer a single arbitrator, they need do no more than utilize the provisions of section 46 of the Labour Relations Act.

On contracting out, we point out that hospitals already have significant collective agreement restrictions on their ability to contract out housekeeping, dietary and other operations; these have been negotiated throughout Ontario in collective agreements with hospitals. At the same time, and right now I guess, as a result of the Ministry of Health's approach to funding, hospitals are being required to downsize, to combine with other hospitals, to combine services with other hospitals. Further restrictions on hospitals' ability to adjust to new funding realities would appear to be contrary to this very objective of the Ministry of Health. There appears to be a different message emanating from the two ministries.

Finally in our formal presentation we would like to refer to the provision that the amendments will be retroactive to June 4, 1992. We have come here representing the hospital industry in the belief that there is a legitimate consultation process going on and that presentations will be considered. Consultation in any meaningful sense means that the government will be listening and that as a result of this latest series of your hearings throughout the province, there will be changes made to these amendments.

To then propose, as the amendments do now, that the resultant amendments, of which we may not even know the contents, should be retroactive to June 4 is completely inappropriate in our submission. These resultant amendments which will occur should take effect when the bill receives royal assent or on proclamation, as is the normal course of events.

We thank you for the opportunity to appear before you, and we would be pleased to answer any questions.

**The Chair:** Thank you, sir. Five minutes per caucus. Mr Lessard, please.

**Mr Wayne Lessard (Windsor-Walkerville):** Thank you very much for your presentation. I noticed in your introductory remarks you indicated that you represent a great number of hospitals, 223, and there are 160,000 employees, so you're speaking on behalf of a very large group of people and institutions. In preparing your submissions to this committee, how were you able to canvass the views of such a large number of people? What process did you go through to do that?

**Mr Bartlett:** Perhaps part of the administration should reply to that. Brian?

**Mr Brian Siegner:** I'd be glad to do that. We are a membership organization. Consultation on a variety of legislative initiatives is a normal part of our business. We have a variety of ways of consulting with the membership. In this particular case, as soon as the initial act was set up for change and a document was put together, that was

mailed out to all participating hospitals; that would be 223. They were asked for their comments. We have a steering committee, a human resources committee, of which Mr Bartlet is the chairman. We had a subcommittee of human resources practitioners within the industry that looked particularly at the proposed amendments, took into consideration the comments we had from hospitals and helped put together a brief, which was then approved by our steering committee and finally our board. So that, in a nutshell, is how we consulted in this particular case.

**Mr Lessard:** Part of the submission dealt with the interests of part-time employees versus the interests of full-time employees and how you saw those two interests conflicting. I'm trying to think of examples where it wouldn't be in the interest of part-time employees to have the same benefits or contractual arrangements as full-time employees. Can you give me some examples of why their interests might be so divergent that part-time employees might be hurt by that?

**Mr Siegner:** I can start and then maybe the chairman or Paul would comment as well. In fact, we do have differences already. As was pointed out, the vast majority of contracts, if I can use the nurses' contracts as an example, would in most hospitals have a full-time and a part-time unit, and there are differences. In fact, benefits would be an example where the part-time staff have a percentage in lieu of benefits. I would not pretend to speak for the union in this case, but I think if you'd quiz it you'd find that the majority of part-time staff prefer to have a percentage in lieu of benefits, as opposed to the full-time staff. There are different and separate seniority lists and layoff provisions etc and the interests of many individuals in most hospitals with respect to a full-time versus a part-time commitment would differentiate them.

**Mr Bartlet:** I could add that there is not the interest in pensions from the part-time group. Although they are now able to join the pension plan under the changes to the Pension Benefits Act, there has been very little interest shown in a pension by the part-time staff, whereas it's very vital to full-time staff.

**Mr Paul LeMay:** Whereas in some industries there's a difference in treatment between full-time and part-time in terms of the relative benefits received, in our collective agreements, while there may be differences, they're relatively equal. There is some dispute at times over precisely how equal they are, but they're relatively equal, and the more practical things come to the fore. Typically, in terms of any union's internal activities, they are more driven by the full-time employees than they are by the part-time employees. That's a normal sort of human condition. When you take a look at the differences that exist in hospitals, one of the key ones that stands right out is scheduling: Who is going to work the Christmas period? Who is going to work over New Year's? Who is going to get the preponderance of weekends? When you meld the units, you're at some risk that the voices of the part-timers are not nearly as well heard as they are when they're a separate group and you're negotiating separately for those scheduling arrangements.

**Mr Steven Offer (Mississauga North):** Thank you for your presentation. I'd like to talk about an issue in the area of third-party picketing and organizing. As you know, under the legislation there will be the opportunity to organize and picket on private property, on property open to the public. I would imagine in many hospitals there's a licensing out of a variety of services, such as the cafeteria and things of this nature. Is it a concern of your association that there is the possibility of organizing and picketing in front of a licensed enterprise located within a hospital and what that might mean to those who have to use the services of the hospital?

1020

**Mr LeMay:** If I can respond to that, there is a concern. We recognize that the interest in picketing has primarily been a private sector one, but you've got two layers, perhaps, within hospitals where there is concern.

There are some hospitals in the province that under the bond program which started in the early 1980s have set up things like shopping malls as part of the facility. The one that easiest describes it perhaps is Ottawa Civic Hospital, where once you come through the entrance to the hospital there is a space of perhaps 30 or 40 feet and you then enter into a shopping mall where you have shops on either side of the corridor leading into the main part of the hospital. There has been some concern that you would have picketing in that circumstance.

We did address that in our submissions initially. Quite frankly, we concluded that from a hospital's perspective today, it was best to try to focus on those things that are primarily hospital-oriented as opposed to issues that are seen as more in the private sector, and that's why that's not reiterated here today.

But it does exist and your point is exactly correct. If you have Canada Catering providing your dietary service, cafeterias are open to the public. We've made the point that aside from having members of the public there, you also have patients' families, patients' relatives and sometimes patients themselves. They're generally in a traumatic situation. It's not a friendly place to be. There is concern, related perhaps to the magnitude of the patient's problem, but the last thing they need is one more hassle and one more appearance of conflict. From our perspective, it really has nothing to do with the primary purpose of the hospital, which is to provide patient care.

**Mr Gerry Phillips (Scarborough-Agincourt):** I appreciate the presentation as well. I want to ask a question on the purpose clause, because in you, Mr Bartlet, we've got kind of a two-in-one here with your labour law background as well.

If the wording proceeds—and I make the assumption that virtually everything here is going to proceed—and the purpose clause does have the words, "To encourage the process of collective bargaining so as to enhance...the ability of employees to negotiate with their employer for the purposes of improving" etc, what would be the impact? Give me some idea of how you may see that unfolding and what problems you see that creating.



**Mr Bartlett:** I see it really as a basis for a charge by the union to an employer with whom the union is negotiating, where concessions or even the status quo are being asked for, that it is bargaining in bad faith because it is not offering to improve wages and benefits in some way.

There is a purpose clause in the present act. It was a signpost as to what was felt to be the basis for the act, but it contained no substantive powers that could be relied on by either party. But if you incorporate it into the act itself, it then becomes a working provision on which people can rely.

We're very concerned, particularly about the fact that improving terms and conditions may not always, especially these days, be the position of the employer, which could result in a complaint of bad-faith bargaining. So particularly we have asked that "improving" be changed to "appropriate." That's my main concern in dealing with employers.

**Mr David Tilson (Dufferin-Peel):** I appreciated three areas you spoke about: your concerns with the retroactive provisions, your concerns with the discharge of provisionary employees and your observation with respect to the purpose clause, that essentially it will now be taken into account when the board is being asked to exercise its discretion. It's a fundamental change.

One area I'd like you, as a legal person, to give me your thoughts on is the change of the powers of the Ontario Labour Relations Board. Specifically, the applications to organize and to picket now with this bill can only be made to the board and there would be no action of any sort, arising in law or otherwise, to the courts; so the whole issue of picketing, whether it's legal, the correct number, proper restrictions, all of that, has now been taken away from the courts and exclusively given to the board.

I don't know what the courts are going to think of all that, particularly when there are questions of matters of the law being breached being delegated to the board. From a legal perspective and as someone who has obviously had substantial experience in this area, I'd like it if you could give me your thoughts on that major change to the board.

**Mr Bartlett:** We in the hospital industry of course have relatively little experience in picketing. We have informational picketing sometimes. We sometimes have picketing where the arbitration board decisions appear to be delayed longer than is necessary. From my own personal experience, I have a great fear of taking away from the courts the right to regulate, especially in illegal picketing. That would seem to me to be a matter that is essentially a civil right, where you are being picketed illegally, either by your own employees during a collective agreement or by somebody else's employees as third-party picketing. That, it seems to me, is a legal right you have to restrain that picketing, and I feel strongly that you should be able to go to the courts on that basis.

**Mr Tilson:** Comments have been made about the effects of picketing on third parties. I know very little about legal matters with respect to the labour law, but it seems to me that those matters would be affected, that it

would be very difficult to proceed to the courts in those matters.

**Mr Bartlett:** I can see that the labour relations board has worked up jurisprudence on restraining legal picketing, and I would not have the same concerns in leaving that solely to the board.

**The Chair:** Thank you, gentlemen, for appearing today on behalf of the Ontario Hospital Association. You've provided an important contribution to the process, and we are grateful for your attendance.

**Mr Bartlett:** Thank you very much, Mr Chairman, on behalf of myself and my colleagues.

1030

STEVEN LANGDON

**The Chair:** The next participant is Steven Langdon, member of Parliament. Mr Langdon, we've got 30 minutes. Please try to save time, at least half of that if you can, for questions and exchanges.

**Mr Steven Langdon:** Mr Chairman, it will undoubtedly be difficult but I'll certainly try. I think copies of the brief which I've prepared are being circulated to members of the committee.

I want to say, first, that it's good of the committee to permit me to make a presentation on this issue, which is so important to my constituents in this part of Essex county.

I want to speak to you, I suppose, partly as a fellow politician at the federal level as opposed to the provincial level, but also as an economist and as somebody who has done a fair amount of work on the early labour history of this province.

It seems to me, as I've listened to this debate go forward, that it is very important that we not lose sight of what seems to me to be the fundamental issue that has to be addressed directly, and that is the value and importance of trade unions to be recognized in a modern economy.

Underlying the opposition of some to this legislation as a whole—and I make distinctions between the opposition to specific provisions within the amendments and the all-out opposition which is being put forward by groups of employers across the province; and it's to that latter group especially that I direct some of these remarks. It seems to me that their opposition to this legislation takes a view that unions hurt the Ontario economy, that they push wages too high and create rigidities in organizing workplaces within the enterprise that make Ontario an uncompetitive place for investment.

I think this view needs to be challenged head-on. Historically, unions have emerged in this province and elsewhere in the world in the very sectors that have been more productive and dynamic from an economic perspective—the automotive sector, chemicals, electrical equipment, steel, the aerospace industry—some of the most productive parts of our economy, some of the most innovative parts of our economy and of course the most heavily unionized parts of our economy.

It seems to me, too, that it's often because of the continuing push of trade union efforts to improve living standards for workers that the pressure has been on companies

to make such economic improvements and make such investments in future productivity and growth.

It seems to me, in fact, that unions have been crucial not just in pushing things like innovation but in helping to deal with restructuring issues, which increasingly are going to be in front of us as we, as an economy, head into a much more internationalized economy.

On a broader level you have to ask yourselves too, I think, about the difference in worklife associated with unionization. I have worked in my past, and I suspect many people around this table have, in both unionized and non-unionized situations, and there is a fundamental difference that can't be denied.

In the unionized context, there was always an appeal and protection against unfair and arbitrary action on the part of the employer. That makes no assumption that all employers, or even most employers, are going to take such unfair and arbitrary actions, but it says that if they are taken by some foreman who's had a bad day, there is a possibility to appeal. I think that's crucial.

In places where unions do not exist, such security does not exist either. Aside from wages, aside from benefits, aside from giving workers a voice in provincial and federal decisions, that fundamental protection of the individual against arbitrary action is at the heart of the meaning of trade unionism for me and for many of the people in this community who have found, as they unionized over the years, that they were able to stop such arbitrary action.

Unions also seem to have been very important historically in broadening income distribution in industrial societies. More workers having enough money to be able to consume a wide range of goods and services has helped the economic growth of our society in Canada. The greater equality in countries like Canada, Britain, Germany, the Netherlands and the Scandinavian countries has also, in my view, made for much more civil and peaceful activity, much more civil and peaceful societies in the post-1945 period.

I ask all of you to consider this question carefully. Certainly all my life as an analyst before becoming a politician and as a political representative leads me to a very positive response that indeed unions have been and are good for Ontario. So where do you go from there?

It seems to me there are problems in the modern economy for trade unions. As the economy changes, it is part of a process, frankly, that has blocked the continuing expansion of trade unions in our province. The large manufacturing and resource enterprises where unionization has concentrated are moving towards computerization and high-tech production systems that reduce the number of workers employed.

This is leading to a situation where unionization and its benefits are increasingly a privilege that a minority of workers enjoy, while the majority of workers scramble in a much less protected, much poorer-paid range of service and small-scale production jobs in which productivity improvements are also much less evident.

I have noticed even in this community, with its high union membership, that the result is coming to be a resentment and a jealousy on the part of many non-unionized

workers, not just because they cannot obtain the workplace protection and better wages and benefits of unionization, but because their own situation makes it much more difficult to form unions. They feel excluded from benefits which unionization brings and they sense a growing inequality in their communities as a result.

Why are they blocked from unionizing? I don't think anyone around this room should be naïve. I think of my own experiences working my way through university. I spent some time working for a small metal manufacturing plant of about 30 workers which the Steelworkers tried to organize. They succeeded in signing up the number of cards they needed for a vote, but by the time of the certification vote the management had quietly but effectively spread the word that the plant would be shut down if workers voted for the union, and the workers, frightened for their jobs, voted against unionizing in the formal vote. In the two months following this result, just incidentally, the management systematically fired all those who had led the drive for the union, and these people of course had no recourse to any kind of grievance or arbitration process.

1040

I know for a fact in this case that the owners of that company would never have shut it down. It was a family firm which the family depended on for its livelihood. But they were outraged that workers might win some power in their factory. That reality, in many small workplaces and service sector facilities, exists. Threats can be communicated easily. Especially given the high unemployment of 1992, such threats can be very effective.

These two realities are why I think Bill 40 is an important step forward. Unions do help citizens in our society. Growing unionization helps improve productivity in Ontario, on the one hand; on the other hand, present laws make it difficult for unionization to occur in many service and small-scale manufacturing enterprises. If we believe in the value of unions—I certainly do and I hope most people around the table would—the laws will have to be improved to provide a fairer balance so that working people in Ontario will feel free to choose the benefits of trade unionism.

They will of course always been free to reject that option. Nothing in this legislation, as I read it, makes it possible for a minority of workers ever to force the majority to join a union. This bill will improve the chances of a majority being able to achieve its unionization goal without unfair harassment, threats and other pressures from employers. It will also provide some security to workers in those early years of a union's existence, when the employer is still trying to resist unionization by, frankly, ignoring the union or refusing to negotiate seriously with it.

This will also balance the two sides in a labour dispute. Employers may lock out workers, workers may vote to strike, but it will no longer be possible for one side to hire replacement workers and continue production just as normal while the other side exclusively bears the costs of the dispute. That, it seems to me, is an unbalanced situation that we have at the moment. This measure in here with respect to replacement workers provides balance in terms of the



economic pressures which each side has to bring to bear in a labour dispute.

The result, too, of the use of replacement workers has always been longer strikes, more bitter strikes and more difficult periods of getting back to normal in the workplace afterwards. The contrast is what we see here in Windsor in the labour relations which exist now with Ford, Chrysler and GM. They would never dream of using replacement workers here these days. The result has not only been shorter strikes when they take place but it has been much more serious and effective bargaining early in the negotiation process.

I want to finish with just some comments on the economic impact of the bill as I see it. Parts of the business community in Ontario claim that these reforms will hurt the Ontario economy, this despite the fact that such heavily unionized firms as Ford, Chrysler and GM are increasing their investment dramatically in this province, in some cases even saying that they are doing so because the trade union movement is so strong in this province, and particularly in this city. The fact of that strength makes it possible to better work together towards productivity improvement.

I've worked as an economist in many parts of the world, including various countries in western Europe, and all the evidence I've seen suggests that greater unionization and greater security for those unions brings economic benefits.

In the Scandinavian countries, the Netherlands, Germany and Austria, there is very strong unionization, from which cooperative relations between business and labour have been worked out in a whole series of plant, sectoral and national-level institutions.

This cooperation, which is based on full worker involvement in many economic decisions, has led to dramatic successes in industrial adjustment, in economic growth rates, in high levels of investment and innovation, and in low rates of unemployment. These are countries with strong, competitive companies as well as unions—Akzo, Volvo, Bayer, Volkswagen, BMW. You can go through a massive list, all of which have become world leaders from their base in countries characterized by high levels of unionization and marked trade union security.

The contribution of such unionization to successful industrial restructuring can be seen clearly in a case that I'll give you from the Netherlands that I did some research on before I came into politics, when the textile industry faced powerful competition from low-cost imports. Working through a business-labour sector committee set up by the government, the Netherlands was able to, first, rationalize much uncompetitive textile spinning capacity into a smaller, modernized, single enterprise; second, provide workers affected with two years of full wages for retraining purposes, giving the great majority new jobs; third, assist several large textile firms to diversify into new areas of production such as windsurfing equipment, for instance, which permitted survival of the companies and many jobs within these high-wage enterprises. At the same time, major transformations took place in the large Dutch synthetic textile producer, Akzo, involving new innovations, shifts to new product lines, and phase-out of more

traditional products, all worked out through management-union planning and negotiation.

I interviewed a lot of the company managers engaged in this effort at industrial change, and their universal position was that the cooperation and hard negotiation that took place with the trade union movement was crucial to the success of this restructuring.

What all this suggests is that high levels of unionization contribute significantly to economic growth. The existence of democratic and dynamic unions makes for real communication between workers and management. That communication can be the basis for crucial cooperative efforts in the economy to identify new economic opportunities, organize public support for moving into such areas, undertake workplace and product innovations, and work out training needs for the future. Strong unions also broaden income distribution, improve home-market demand for goods and services from Ontario firms, and provide the basis from which export gains can be made in the future. As I see economic problems in Ontario in 1992, then, growing unionization is part of the solution, not part of the problem.

There are those who say the timing of this legislation is wrong. In my view, the timing is crucially right. The laws have to be in place to contribute to growing unionization as the economy slowly improves, so that we do spread benefits around this time and avoid the increasing inequality that resulted in the 1980s, in the post-recession period of that time. That increasing inequality has been an important factor in making this recession so difficult. Building toward a fairer society where incomes are better spread and productivity is growing, I think, is essential to moving ahead economically, to avoiding in the future for this province such long periods of economic stagnation as we've been experiencing in the last two and a half years. I'd certainly ask you to pass this bill as quickly as possible.

1050

**The Chair:** Mr Phillips, three minutes, please.

**Mr Phillips:** You don't have to worry about it passing quickly because it's there and it's going to pass. The rules have already been passed.

**Mr Langdon:** You're going to cooperate?

**Mr Phillips:** No, it's closure. It's finished, it's done. The rules are there and the opposition can do nothing about it, so you can sleep easy tonight knowing that's a done deal. The timing is all set out, the number of days' debate and what not. Rest easy on that. It offends us in opposition, but those who support it wholeheartedly need not worry.

I would make one observation on your paper, which I think I read carefully, to acknowledge that a unionized environment often is a very good work environment but that there are a lot of non-unionized environments that are equally effective and fair and equitable. I think that's what your brief says. I believe that. I believe there are lots of non-union organizations that have a different structure but an equally fair structure. I think your brief suggests that.

The thing that's on my mind in Ontario is just the dislocation that's going on throughout our employment

centres. As I look at those organizations that are closing, completely shutting down, about 70% of them are unionized. Although only about 20% of the private sector is unionized, about 70% of the closures are unionized. A lot of the CAW people were in yesterday and I was pointing out that I think the CAW has been particularly hard hit.

My question to you really is this: What are the aspects of this bill that you see helping to cope with that situation? If that's reality—and I think all of us, perhaps even yourself, might acknowledge that we're in kind of a global trading environment now where there is, I gather, the need to adjust—how do you see this bill helping organizations cope with what I see to be perhaps the most significant problem facing people in Ontario right now, and that is jobs?

**Mr Langdon:** Let me say three things. First, I too in my daily life am an opposition politician. I just can't resist making the point that the rules that have been passed in the province of Ontario are equivalent to the situation which used to exist at the national level. They provide for a good deal of debate and consideration.

**Mr Phillips:** You haven't followed this, then.

**Mr Langdon:** I have, very carefully.

**Mr Phillips:** This bill was introduced in June and will be passed, complete, by the middle of October. There has never been a major bill in Ontario ever passed in that short a period of time.

**Mr Langdon:** The point that I'm making is that at the federal level it is now possible to do this kind of thing in the space of a week or two.

**Mr Phillips:** From first to third reading?

**Mr Langdon:** Absolutely.

**Mr Phillips:** God. You surely don't agree with that.

**Mr Langdon:** No, we fought it very hard, as indeed we fought some of the changes which tightened things up under a Liberal government previously.

**Mr Phillips:** Which we're fighting down here in Ontario.

**Mr Langdon:** But I simply make the point that what seems to me to have happened with the Legislature of Ontario is the introduction of some constraints on speeches which, frankly, to those of us who are at the federal level look like remarkable latitude. The amount of time you have to speak, the amount of say you have on a piece of legislation, the amount of time a piece of legislation has to be considered through is so much broader than is the case at the federal level that, frankly, I stand still, amazed at the freedom you have.

**Mr Phillips:** But you wouldn't support these rules.

**Mr Langdon:** I'm simply making the point that the contrast between the federal and the provincial level has been somewhat reduced. There is still so much more freedom at the provincial level that I suggest you revel in it.

**Mr Phillips:** Really?

**Mr Langdon:** Absolutely.

**Mr Phillips:** You don't believe that.

**Mr Langdon:** I do, actually.

**Mr Phillips:** God.

**Mr Langdon:** On the second point which you raised, certainly I would agree that we have here a province in which there are various forms of workplace organization. Some of those forms don't involve unions and work extremely well. My friends in the Steelworkers may not like me saying this, but there's not much question that Dofasco has been very successful in its relationship with its employees without a trade union. But there are a great many companies in which people have sought over the years to form unions and have found it very difficult because of the nature of our labour laws. It's important that those labour laws be balanced so that it is possible for people to make the choice that they want to make freely, either to be part of a trade union or to not be part of a trade union.

On the third point with respect to closures and jobs, there are a number of factors and a number of elements in this legislation that are especially helpful. One is the establishment of a requirement that bargaining take place in the case of a closure. It will no longer be possible for a plant such as Allied Chemicals in my constituency here in Essex-Windsor, which has simply unilaterally announced a closure and then dictated the terms of that closure, or for a company like Paragon Tools here in Windsor to shut down and simply transfer its facilities and contracts and so forth to the United States without any negotiation taking place. That's an important step forward.

It's also an important step forward if we can convince people across this province who are not in the traditionally unionized sectors that they have a chance to unionize, that they have a chance to get fairer treatment if they feel they're not receiving it at the workplace. This will be something that will balance out the economic situations that face firms in this province so that, for instance, one large auto parts company which has traditionally fought unions will not have an advantage, as a result, against other large auto parts producers that have unions. If we can even out those economic situations, that's going to make for less pressure coming from imbalances that exist here in our province that lead to shutdowns.

**Mr Tilson:** I agree with Mr Phillips that the whole exercise we're going through is probably a charade and that there will be very few amendments, if any. Regarding your request that the bill be passed quickly, I think it will be passed very quickly. I've never met you, but I'm certain Mr Rae and his government appreciate your coming down and offering your support to this bill, which leads me to my question.

The bill will be passed and will be passed with very few amendments. I get back to the question that you have asked: Where do we go from here? On the one hand, the right hand, I suppose, the management is saying: "Businesses are going to close down. They're going to move out of the province. Investment is not going to come to Ontario. It's going to be a bad place to do business." On the other hand, the left hand, the union leaders are saying: "This is just fearmongering. The impact on investment is not what they're saying."



1100

Gord Wilson has come to us and said this type of criticism is similar to business's opposition to child labour legislation at the turn of the century and business's opposition to women's suffrage, going back in time.

Mr Hargrove has come forward and said he wants no part of joint operating programs in which union and management work as a team to administer solutions to problems in plants. He said, "We reject the philosophy that workers' wages somehow have to be tied to the success of the corporation."

Statements such as that are as extreme on the left hand as the other statements perhaps are as extreme on the right. In other words, this legislation, I say to you, has created an unbelievable wedge that I believe will take years to make the two groups come back closer together. If we're going to solve these economic problems, the unions must be here and business must be here. I think we all agree to that. The difficulty is that this is what's been created by this bill.

So I ask you your question: The bill will be passed probably in its entirety. Where do we go from here?

**Mr Langdon:** With respect, Mr Tilson, let me suggest two things. First, on the question of amendments to this whole process of developing labour reform legislation, the Minister of Labour, Mr Mackenzie, appeared here back in January with a discussion paper which I made a presentation on. I indicated at that time that I was especially pleased with a number of the provisions in the legislation, including the fact that it would be possible to get automatic certification with 50% as opposed to the present 55%. I also suggested a number of ways in which I thought the package, as set out in the discussion paper, could be made stronger and more effective for my constituents.

Mr Mackenzie also had a fair number of other representations during the course of his hearings. The result is a bill which, frankly, represents a considerable compromise, as I see it and as many of my constituents see it. Many of my constituents would not be pleased at the fact that there has been a retreat from 50% to 55% for automatic certification. Many of my constituents would have preferred some of the changes I suggested to strengthen, as I saw it, the collective bargaining process. They have been rejected, and my constituents have said that a fair number of suggestions from the management side have been incorporated.

As I've watched this whole process of labour reform follow its tortuous course for virtually two years now, I have seen a dramatic series of changes which tells me nothing except that this government is listening very seriously and taking very seriously some of the concerns you've been articulating with respect to the views of the business community.

I think, however—and this is my second point—that once you see a piece of legislation passed, the shotguns from both sides will be lowered and it will be possible for people to get on with the business of working things through in a somewhat reformed, but not dramatically or radically reformed, labour relations context. Frankly, I think that is what we need at this point. That's why we need to see this piece of legislation go through quickly, so that this uncertainty is eliminated for the business community.

The only other point I'd make is that you suggested perhaps a sense of moving to the extremes, but I'd call it perhaps a sense of increased bitterness in relations between business and labour. I think it has much more to do with a whole set of issues such as the free trade agreement—

**Mr Tilson:** You don't really believe that, do you?

**Mr Langdon:** Actually, I do—such as a series of legislative actions on the part of the federal government, than it has to do with anything the province of Ontario has done. I think the province of Ontario has tried very hard to establish as good relations as possible with both the business community and the labour movement in order to try to achieve economic progress for this province and an increase in jobs. I think that's a very serious priority, which explains why certain actions which some of us as New Democrats might have liked to have seen taken have not in fact been taken. But as I sit and work in Ottawa, I do not see a similar approach on the part of the federal government, and I would hope—

**Mr Tilson:** I'm sure you're keeping your fingers crossed that management is wrong in these allegations they're making at these hearings, because if they're right, we're in deep trouble.

**Mr Langdon:** With respect to that, I think you will always have threats used in this kind of context. There were threats used of shutdowns before the free trade deal.

**Mr Tilson:** I submit it's not a threat. They're clear facts they're putting forward.

**Mr Langdon:** It was a clear fact before the free trade deal in the 1988 election, written by Stelco to its workers, that if that trade deal was not passed, it would be seriously damaged. If it was passed, they would have guaranteed access to the American market. It was passed. They have been seriously damaged because they have not had guaranteed access to the American market.

People say a great deal in the midst of disputes. What they will in fact do in the aftermath of a decision is something which I think can be better judged through the discussions which have taken place in the Premier's Council than can be judged by the public utterances of both sides. I would be very surprised if within the confines of the Premier's Council the message was as hard and as bitter as what is being stated publicly by business.

**Mr Tilson:** Business isn't invited to the council.

**Mr Langdon:** Business, as I'm sure you know, has a long and considerable membership list on that council.

**The Chair:** Mr Langdon, thank you. You've obviously provoked a significant response from the membership of the committee, and we thank you for coming here this morning. We appreciate your contribution. We trust you'll be keeping in touch.

1110

#### WINDSOR RESTAURANT ASSOCIATION

**The Chair:** The next participant is the Ontario Restaurant Association, Windsor-Essex-Chatham region. Please come forward. Tell us your names and titles and commence with your submission.

**Mr Jim Evans:** Good morning. Thank you very much for this presentation, ladies and gentlemen. We're a volunteer group of the Ontario Restaurant Association, specifically Windsor, Essex, Chatham, and we've recently added Sarnia. With me is our president, Evelyn Slobasky. Tim Watson is out of town; he is our chairperson of municipal government affairs and unfortunately will not be represented today. His vice-chairman and a director of our association is Tom Racovitis. My name is Jim Evans. Each of us is very active in our association, and it's a growth situation inasmuch as we've gone from a membership of 60 to well over 100. That being the case, I would ask our members to stand and be identified in the room today, please. Thank you.

We will split the time between myself and Mr Racovitis. I will open, Mr Racovitis will close, followed by the questions.

On behalf of the Windsor Restaurant Association, we are very pleased to be here today to discuss Bill 40 and the impact it will have on the restaurant and tourism industry in Windsor. Restaurant operators, suppliers and employees in Windsor are very concerned about the impact that Bill 40 will have on our establishments and the economy of Windsor. We are very concerned that this bill will undermine investor confidence and will contribute to additional job losses in Windsor and in Ontario.

As business people, we are concerned that changes to the Ontario Labour Relations Act contained in Bill 40 appear to be designed for large industrial and manufacturing operations and do not recognize the needs of small operators such as the many family-run establishments that dominate the food industry. Small independent operators make up close to 80% of the restaurant industry. It is the small business sector that is also responsible for most of the job creation in Ontario over the last 10 years, and it is this sector which is critical to Ontario's economic recovery.

In the restaurant industry most operators do not have a separate human resources department, cannot afford labour relations experts, rely on labour from family members and manage the operation in a hands-on fashion. This creates serious problems for small operators when they are confronted by the increasing regulatory climate, which translates into a growing administrative and paperwork burden being placed on small employers by the government. The end result of placing a growing administrative burden on small employers is to discourage them from creating the jobs desperately needed to pull Ontario out of this current recession.

Unemployment is the most pressing problem facing Windsor and Ontario. Economic projections from the Ministry of Treasury and Economics suggest that unemployment will remain at unacceptably high levels until at least 1995. It is therefore imperative that fighting unemployment should become the government's top priority. Policies which undermine this objective should not be pursued. Bill 40 will not create one job in Ontario. Instead it may undermine investor confidence and encourage or force some employers to leave Ontario. This will only result in increased unemployment.

**Fairness:** The government has often indicated that it is undertaking changes to the Ontario Labour Relations Act in order to increase fairness and balance in the labour relations system and to ensure that the rights of all participants are protected. Unfortunately, Bill 40 fails to accomplish this and does not equally address fairness within the labour relations system. For a small operator-owner facing a large, well-financed union before the board, there is no fairness. Smaller operators have no expertise, no resources and no time to ensure proper representation before the labour relations board.

As small operators, we are concerned that the labour relations system systematically discriminates against small employers, relative to big business and big unions. Because the system is designed for big business and big unions, often small employers are overwhelmed by the labour relations system, and subsequently needs and rights are ignored.

As small employers, we believe the goal of Bill 40 should be to make the labour relations system more user-friendly for both employees and small employers. It should not be a system designed to regulate big business and big unions. This does not accomplish the goal of improving workplace relations, and in some cases reduces the rights of individual employees.

We believe it is important that amendments to Bill 40 be introduced which will simplify the Ontario Labour Relations Act and protect the rights of employees and small employers. We believe a great deal of workplace conflict can be reduced if the labour relations system is simplified and made more user-friendly. To help accomplish this task, we would like to put forward a number of constructive proposals which we believe will strengthen the rights of the employees and improve the labour relations system, especially in the service sector and the small business community. There are three points that I would like to highlight at this time.

Firstly, we believe that a toll-free information line should be established in Ontario which would be accessible to both employees and small employers. An information line would ensure reliable and non-biased information is available at any time it is needed. This would help reduce the potential workplace conflict caused by misunderstandings of the OLRA or a misinterpretation of one's rights and responsibilities. We believe the toll-free information line should be available and accessible so as to clarify and resolve immediate workplace issues on the spot. We believe that improving the amount of information available to all parties will significantly improve workplace relations.

Secondly, we believe that a free legal assistance service should be available to employees and small employers to help them protect their rights within the labour relations system. Since the system is designed and administered for big business and big unions, it is important that a legal mechanism which would help protect the rights of individual employees and small employers be put into place. We envision this system working in a manner similar to that of the employer and employee advisory offices within the workers' compensation system and that it would be provided free to participants upon their request. As the labour



relations system becomes more complicated, we believe it is important that mechanisms be put in place which ensure that rights of individuals are protected.

Thirdly, another initiative which we believe would help improve the labour relations system, as well as strengthen the rights of workers, is to simplify the certification process and reduce the need for protracted board hearings. For small, hands-on operators in the restaurant sector, it is very difficult, if not impossible, to participate in protracted board hearings, because the operators are tied to their workplace and their customers and simply cannot drop everything to rush down to the labour relations board. This becomes a very acute problem, especially during a prolonged certification process.

At this time I'd like to conclude and turn it over to Mr Tom Racovitits.

**Mr Tom Racovitits:** Good morning. The certification process as proposed in Bill 40 is a major concern to restaurateurs because it doesn't address the needs and concerns of the employee or the employer where both traditionally work together. Unlike the traditional manufacturing segment of our economy, the foodservice and hospitality industry is much more closely entwined already, whether union or non-union.

Employees are maintained and improved through our industry. They are an introductory level of work. Our industry is very competitive, and for every auto or steel manufacturing company there are literally hundreds of restaurants, a profession in existence in every country of the world for many centuries before the Industrial Revolution.

We can't be a growing and viable part of the economy with additional restrictions and legislation. We are concerned that the individual rights of all employees be considered. Truthfully, how many complaints are filed by employees in our industry as compared to a lot of others when you consider the numbers? Progress can only be achieved in the workplace where the employer-employee relationship is based on mutual trust and respect. Unfortunately, Bill 40 does not promote this principle but rather prevents it.

1120

We believe the proposed certification does not guarantee all employees a secret vote, is not productive and doesn't promote harmonious labour relations in our industry. To improve the democratic nature of the certification process, we suggest the proposed certification process be modified to allow a fair and simple, board-supervised, secret ballot process. This would result in people making a fully informed decision.

We believe all employees should have the right to freely voice their views on joining or not joining, and further, not have their rights infringed upon through limitations and their right to change their minds.

By introducing a secret ballot certification process, the certification process will be brought out into the open and in doing so reduce the potential for intimidation and conflict. We also believe that when a union is certified through a democratic vote, it is perceived legitimately in the workplace and it will decrease the potential for conflict.

We are very concerned about the workplace conflict which could develop if a union is certified when it does not have majority support. This could easily be the situation when certification takes place as a result of an unfair labour practice and the level of union support is not considered, or when employee petitions are rejected because they were filed after a union's application for certification but before the board certifies the union. Both of these situations would cast doubt on the legitimacy of the union to represent the interests of a bargaining unit in which it does not have majority support.

As part of the certification vote system, we encourage the adoption of a mechanism which would provide for free, open meetings between unions and employees, and employers and employees before certification would take place, meetings taking place under the supervision of a board representative. The board rep could answer questions and ensure employees have a much more informed decision. A vote would take place between 24 and 72 hours after the meetings. We believe this would substantially reduce the possibility of workplace conflict.

Replacement worker ban: For the individual or independent operator, this is one of the most concerning elements contained in the bill where it would place restrictions on the use of current and replacement workers during a work stoppage, especially banning the use of family members. This proposal could have a devastating effect in the restaurant, tourism and agricultural industries, as well as our suppliers.

This replacement worker ban could result in the closing of many of our suppliers, our food distributors and food processors at a time when we most need their product. We cannot stockpile products ahead of time as manufacturing and automotive industries can. We wouldn't have food to serve our customers, be it a wedding or special occasion, or even government hearings, and to get that lost customer to return would be a long time coming, especially to our United States friends. Without customers and cash flow for even a Friday, Saturday and Sunday, many independent restaurants would not be able to make their next payroll.

Speaking to that, our industry has been suffering economic and volume hardships since 1989. We employed 219,000 people in Ontario in 1989, not including the related industries that support ours. In 1991, we had 145,000 people; 60,000 of the jobs were lost in the last 24 months.

In the restaurant industry, profit margins are very low to begin with, much lower than a waiter's or a waitress's expected gratuity, as a matter of fact. In a border city like Windsor, it's even worse. People have an alternative 15 minutes away where there's only a 4% sales tax and no GST.

As well, major product costs are much less than ours. In many cases, the staples are one third of the cost of ours at wholesale, 30% less than ours, not to mention the capital cost, the financing cost of supplies and a much bigger market to draw from. We know this playing field existed before, and we competed effectively before. That market has shrunk as much as 90% for some establishments in this city.

In conclusion, we urge the government to consider our proposals and to reconsider the plan to pass Bill 40 before the year-end. Due to the long-term effect this legislation will have on the economic health of Ontario and the increase in potential for major job loss in the hospitality industry, we respectfully urge you to consider the ideas we have put forward here today and the formal amendments presented by the Ontario Restaurant Association.

We're an industry, especially in Windsor, still bleeding and staggering from the GST, the cross-border shopping, the permanent closing of many industrial plants in our city, contrary to what was said earlier, where people will say the employer is simply bluffing. There are a lot of empty plants in this city that are the result of the so-called bluff. Recently, we also had many white-collar job terminations in this city.

A big difference for us in the Windsor area—and I don't ask for special privileges for us in Windsor, but to draw a parallel, restaurants in Toronto are playing on an equal playing field, as are restaurants in the more internal part of Ontario. Our main competition on this side of the border is the alternative shopping across the border, and it's become a major problem to this whole community, not just the foodservice industry.

I'd like to close with a quote from Albert Einstein: "The significant problems we face cannot be solved at the same level of thinking we were at when we created them." Thank you very much for your time.

**Mr Randy R. Hope (Chatham-Kent):** In your presentation you focused a lot on Windsor. When you deal with Chatham—that happens to be in my riding—I want a bit of clarification when you say "family-owned operations" or "small employers." What size ratio are you looking at of employees who work in those facilities?

**Mr Racovitits:** Individual operations could be as much as 100 or 120. Those are exceptions; those aren't the rules. The majority of restaurants in the city of Chatham, as a matter of fact, are privately owned. There are very few major corporations or major restaurant companies there.

**Mr Hope:** I was listening very carefully to what you said and you reflected a lot of what is going on in Windsor. You mentioned a 1-800 line. I've talked to some employers, and most of the people in the restaurant industry in the Chatham area don't even use the 1-800 line for employment standards, because they're using—they would like to be treated as an employee, so it's the family businesses that I'm looking at.

When I read your presentation, I'm led to believe, and I know I'm wrong, that most of the employers are bad employers, because all of a sudden you think there is going to be, according to what I read in the presentation, a massive rush to organize. The restaurant industry in my community fought with us against plant closures because it knew the impact. If we're not there to spend, they're out of business. They were there with us in the fight against plant closures.

I know for a fact, from my conversations with a number of the employers in the Chatham area, that they're not even worried about this, because even with your toll-free

lines or whatever, they believe people have rights and they understand that. There's no change in certification; you have to get more than 50% of them mad at you, so you're going to have to be a really bad employer. But when I read your presentation, your presentation sends a signal to me that you're seeing devastation hit your businesses, and I'm sure that all your employers are not bad employers, that they've all got over 50% of them mad at them.

1130

**Mr Racovitits:** Far from it. Most employers in our industry are extremely good employers or they wouldn't be in it, because they came out of the working ranks in the first place.

**Mr Hope:** That's why I have to ask the question. What is the fear of the association if you are treating your employees with respect and dignity? Not everybody's out for a high wage, because some of them working in the restaurant industry—I know your staff turnovers are high. With that in mind, I can't see the massive rush and the concern behind this, I guess because you still need the number for certification. The numbers haven't changed for certification. And when you're asking for toll-free lines and legal assistance and everything, it sounds like you're looking for the worst to occur, and I don't think that's going to happen.

**Mr Racovitits:** We're looking for people to be totally and completely informed. You mentioned the standards act earlier. The standards act, if you look at it from an employee's point of view, is confusing. If you look at it from an employer's point of view, it's only for the employee. There is absolutely nothing, no protection at all, for employers in the province when it comes to protecting themselves from unfair treatment from other people and being set up. It's happened. There have been many, many occasions when this has taken place. I think where we're concerned is not the idea of being certified. I think that isn't of major concern. It's the process, the locking-out or the inability of people to conduct business.

If you're in a catering and restaurant business and you have a commitment to people to provide a service, and if you're catering to people—especially in our community, cross-border—once they break the habit of coming here it is a hard, long time to get them back, number one.

Number two, they said earlier that they wanted equity, that where the employee is on strike, then the employer shouldn't be able to operate. But nothing prevents the employee—and it's a fact that they will go and work elsewhere, with the competition. In the meantime, the employer that's being struck at the time, whether it's right or wrong—and I don't advocate that the company that would be on strike would be totally blameless. But in this particular case, a great many of our businesses are very family-oriented to begin with. To say nobody can operate, that you can't fulfil any of your commitments as long as they're on strike, it's almost like you're being held hostage. There's no contest.

**Mr Hope:** You hit the key word: family.

**Mr Racovitits:** Absolutely.



**Mr Hope:** I have to pass on to my colleague because he wanted to ask a question, but you hit the key word. You treat people like family—

**Mr Racovitis:** We do, anyway.

**Mr Hope:** —and then you don't have to worry about organizations.

**Mr Racovitis:** That's nice in theory, except that there are people out there who can really—

**Mr Hope:** Well, it does happen.

**Mr Lessard:** I know that we're running short of time, and so I won't ask a question but will just make a couple of comments. I want to thank you very much for your presentation here today and the fact that you were able to bring so many members of your association here with you. You've done a good job of indicating some of the problems that we have here in Windsor, being a border city, because maybe if you're in Toronto and you want to buy a pair of shoes, you'll drive to Buffalo, but if you're hungry, you're not going to do that.

I contrast the presentation that you've made, where you've had a lot of constructive suggestions, with that made by the chamber of commerce, and I understand that some of your members are members of the chamber as well. Their comments were basically just to withdraw this legislation and forget about it. So it was good to see some of your suggestions. I kind of like the one about the free legal assistance. I have sort of a vested interest in making legal assistance more accessible, and I know that's an initiative in this community that was undertaken by the CAW many years ago. They established the pre-paid legal assistance plan, and it's been a great help for people in the city. I just want to thank you, and those are my comments.

**Mr Offer:** We have a few questions. Thank you for your presentation. I'm wondering if you can share with the committee, not just from the restaurant association, but what the impact of the legislation might be to convention trade in this city. I have no doubt that there is probably some significant convention trade, and I have no doubt that these types of issues may have an impact, positive or negative, on that, especially when you have a city just across the river so close. I'm wondering if you might just share with us your thoughts on that issue.

**Mr Racovitis:** Sure. One of the big things to consider in that is the idea—and I want to clarify. We're not sitting here in a panic that everybody's going to run out and get organized and unionized and so on. I would say 95% of all the people sitting in this room work day to day, day in and day out and seven days a week, with their employees. So I think we do have a fairly good relationship.

Where part of the problem comes in is in the event that somebody is subjected to this kind of legislation and there is this lockout and you do have commitments to specific types of fairs or catering, tourism, the trade shows that potentially we could bring into our community, or Toronto, anywhere in Ontario.

I think you can't take one blanket when it comes to putting together this kind of legislation and it'll fit everybody. It's like one pair of shoes will fit everybody: It just doesn't work, and I think there's got to be some realistic

consideration given to the hospitality and service industry, as opposed to the manufacturing industry, which has a lot of different components to it compared to our industry.

We're dealing with personality, we're dealing with attitude, and a city and a community and a province, as a destination point, is primarily judged by the restaurants they go to, the events they've been to, the social structure of it. People visiting our province don't go into the factories and see whether they're nice and everybody's happy and everybody's friendly, but they do come into the restaurants, they do come into the hospitality industry. And being the hospitality industry, there's got to be some consideration given in that respect for us to keep on moving forward in the biggest growth potential areas, the tourism and hospitality industry. It's been proven all over the world, not just here.

**Mr Phillips:** Just because of time, I too will make more comments than questions, because I agree with much of your presentation, frankly, and I disagree with the government members, in that I think Mr Hope's suggesting that the only place that will be subject to unionization is the terribly unfair employer. I don't believe that to be the case. I think there will be lots of examples where very fair, equitable employers, for whatever reason—perhaps they're running through some difficult economic times—will find that it's difficult to meet the expectations of the employees. I just fundamentally disagree that the only place that will be unionized is that.

I wish we could be more optimistic for you on the timing. The timing, frankly, is set. The rules have been passed. This bill is going to pass in the Legislature, probably by Thanksgiving. We have been arguing in favour of several of your proposals, and we will continue to do that, but we all live in a democracy where the governing party, in the final analysis, is able to do what it wants.

If we do have time for a minor question—

**The Vice-Chair (Mr Huget):** You've just got about one minute, Mr Phillips.

**Mr Phillips:** I'll make the observation that we do believe this is going to have a significant negative impact on the investment in the province of Ontario. The government doesn't believe that. Only time will tell. We'll only know that, unfortunately, in my view, three or four years from now. We're all trying to put our best judgement on it. We're arguing that this will have a negative impact, the government is saying it won't, and it has the cards. So anything your group can do to help the government understand the specifics of the economic impact I think would be helpful.

**Mr Racovitis:** I can confirm that fact, by the way, on our own part.

[Interruption]

**Mr Phillips:** No, I'm just telling you that the decision has been made on when this bill is going to be passed. The minister has said already that he personally has been through this for a long period of time. The opposition only saw the bill in the middle of June, so we're on a very short time frame. In our opinion there should be far more debate, much longer hearings, more people should have an

opportunity to present, all of those things. I'm just trying to be as honest with your association as I can be.

**Mr Evans:** Could I ask the NDP one question?

**The Chair:** Excuse me, sir; we have expired the time allocated for this presentation. There's another group waiting patiently behind you. I would like to thank the Ontario Restaurant Association, Windsor/Essex/Chatham region, and each of you for your presentation and contribution here this morning. It has been noted by all members of this committee that your presentation was very constructive, and we thank you for taking that very constructive approach.

1140

UNITED STEELWORKERS OF AMERICA,  
SOUTHWESTERN ONTARIO AREA COUNCIL

**The Vice-Chair:** The next group is the United Steelworkers, southwestern area council. If you could come forward, please, and identify yourself for the purposes of Hansard and then proceed with your presentation. Try to leave some time in the half-hour allocated to you for questions and answers.

**Mr Steve Banks:** My name is Steve Banks. I'm a servicing staff representative with the United Steelworkers of America. I'm here to address you on behalf of the southwestern Ontario area council of the United Steelworkers of America. Our area council extends from Ingersoll west to Windsor. The local unions which comprise our council negotiate collective agreements with more than 50 employers, and we're privileged to represent more than 4,500 employees.

We negotiate with employers in the manufacturing, auto parts, metal stamping, nursing home, credit union, cement and rock quarry, steel fabricating, trucking, environmental waste and hazardous spills, metal recycling, grocery, food and retail store sectors of southwestern Ontario's economy. As you can see, we are involved right across the economy and have a real exposure to the needs of working men and women in this part of Ontario.

As a union organizer, negotiator and spokesperson, I have come to understand the limitations of the present Ontario Labour Relations Act and why the act must be changed. Bill 40 represents an effort to achieve some important improvements which are long overdue. In my opinion, the bill will improve the climate of labour relations, reduce industrial conflict and lay the groundwork for the kind of participatory workplace which employees demand and which employers must recognize is the key to economic success.

In my remarks today I want to focus on three reforms included in Bill 40 which will make a real difference for our members. In highlighting three reforms, I do not want you to think that there are not many others that are worthy of detailed comment. You have already heard from our national director, Mr Leo Gerard, and from our District 6 director, Mr Henry Hynd. They have reviewed the philosophical foundations for reforms. They have drawn your attention to the security guard provisions, the improvements to the certification process, the reforms to the first-agreement arbitration provisions and the elimination of

post-application petitions. They also addressed the question of broader-based bargaining. I want to take a moment to comment on that question, because it is an important deficiency in Bill 40.

The need for a task force on broader-based bargaining is very important to the non-union sectors in our region. You must appreciate that in the industries which do not conform to single-plant structures, it is virtually impossible for workers to join together and speak with a single voice through a union. As a result, sectors of our labour market that are the weakest and the most marginalized will not gain real benefits from Bill 40. We reiterate the need for a real examination of broader-based bargaining structures, including a review of sectoral employment standards options so that the vehicle of collective bargaining can bring more workplace involvement for those now excluded.

As Director Hynd told you, we cannot tinker with a mini-study. A task force, which our union urges you to recommend to the government, must be open to new ideas and must recognize the crucial importance of women, visible minority employees and employees with disabilities and others excluded from the mainstream of collective bargaining. Bill 40 is a start, but is not enough. I now want to comment on three topics.

1. Complaints during organizing activities: I know from my experience, and it makes a lot of sense to me, that the best way to defeat a union organizing campaign is to fire the organizer. A lot of employers have figured this out. In fact, I think it's fair to say that the discharge of union organizers is an epidemic in Ontario. If you fire the organizer fast enough, you win, even if you lose the subsequent hearing at the board. You win because you defeat the union's organizing campaign. Perhaps you have to pay the discharged employee some money or take the employee back, but the message to all other employees is clear: "If you mess around with union organizing, you'll be out on the street for a long time and you'll have to fight to get your way back in." It's 1992 and that's still what happens.

How can any self-respecting legislator complain about reforms in Bill 40 that will expedite board hearings where an employee has been disciplined, discharged, or otherwise penalized during trade union organizing activities? The new law will require that the board begin to hear the matter within 15 days. The proposal deals with the problems of adjournments and continuations by requiring that the hearings proceed from Monday to Thursday, until the matter is concluded. In addition, the board will have to give its decision very quickly, with reasons to follow if either party requests them.

2. Just cause and arbitration: Of equal importance is that the bill provides workers in a newly certified bargaining unit with just-cause protection from the date of the certification by the board until the first agreement comes into effect. No longer will employers be able to fire with impunity, under the guise of business reasons, without subjecting their decision to a just-cause review by an independent adjudicator. In addition, all collective agreements will be deemed to have a just-cause provision. Surely these



changes will receive the warm support of this entire committee.

As a union representative who appears before arbitrators on a regular basis, I know how important it is that workers benefit from effective arbitration. That is why I welcome the improvements to sections 45 and 46 of the act. The involvement of settlement officers encourages settlements. The results of settlement officer involvement have been astounding. When the appointment of an arbitrator comes from the minister under section 45, the settlement process should be available. Setting out the time for the release of decisions is also crucial. There is no excuse for unwarranted delays by arbitrators. It is valuable for the minister to have new powers to make orders as are necessary to ensure the speedy delivery of decisions.

There is something else I want to add about arbitration. Bill 40 addresses certain real problems that need fixing. Arbitrators should have the power to determine the nature of the differences between the parties in order to address the real substance of the disagreement. Preliminary and technical objections that do not really focus on what's going on in the dispute should give way to the real disagreement. I think the arbitrator should have statutory approval for interpreting and applying all employment-related statutes, including the Human Rights Code, the Pay Equity Act and the soon-to-be Employment Equity Act. These changes are essential and long overdue.

The expedited arbitration system has been working well in Ontario. The provisions for referring grievances to a single mediator-arbitrator to resolve them in an expeditious and informal manner is a really good improvement. It also makes sense that the parties must agree on the nature of the issues which will be dealt with by the mediator-arbitrator.

3. Anti-replacement provisions: The employer-dominated media and the media organs acting as employers have swamped the public debate about anti-replacement during a legal strike or lockout. It is beyond me why you should be swayed by their hysteria.

The anti-replacement provisions that have been proposed, which we support, will reduce picket line violence and focus the parties' attention on resolving the labour dispute. Instead of trying to beat and destroy the union, I believe the quality of dialogue at the bargaining table will improve where the survival of the union is no longer an issue for either side.

The fact is, no employee wants to destroy his or her employer. We all understand that destroying the employer means our unemployment. To say that the anti-replacement provisions will enhance a union's bargaining power is a failure to recognize the inherent limitations on that bargaining power.

1150

Our members who may strike are employees of struck employers. They have seniority, job security, employment benefits, friends and relationships which all revolve around their employer. These union members, employers and employees determine the bargaining issues and will vote to accept or reject any collective agreement.

Eliminating replacement workers will finally bring Ontario up-to-date with our neighbours in Quebec and with labour relations regimes throughout the western industrial world, save the USA.

I do not think we should be looking south of the border for a model for any social or economic programs for the citizens of Ontario. The members of our council live and work very close to the border. We have enough experience in Windsor with the political climate across the river to appreciate how little we can learn from the American experience.

As Director Gerard told you when he addressed you, Professor Lord Wedderburn of the London School of Economics examined some of the reforms set forth in Bill 40 so they could be assessed in the context of labour relations systems in western Europe. The fact is, there is nothing particularly new, novel or unusual about any of the items, including the anti-replacement provisions.

Replacing workers who engage in lawful strikes just doesn't happen in civilized societies where employees' rights are affirmed in the political and legal culture. Ontario should be no different. The business community has got to lower the volume if we are going to repair the damage it has caused to our labour relations climate.

Our council supports Bill 40. We think this committee should support the bill as well. I urge those of you who continue to express your opposition to these changes to re-evaluate what it is that motivates you. Some of you may never have experienced the power of the employer in the workplace. Some of you may not know how the workplace atmosphere can be tainted during an organizing campaign and how a representation vote just cannot represent the true wishes of those voting.

The workplace isn't the same as any other place. We finally have a bill that has recognized that employees in the workplace need some help to participate in the economy and to improve their lives. I urge you to move Bill 40 through the Legislature and to royal assent without delay. Thank you.

**The Vice-Chair:** Thank you very much. Questions?

**Mr Pat Hayes (Essex-Kent):** Thank you very much, Steve, a very good presentation. I'm glad you were able to make it here. As to your comments in regard to legislators who are not willing to support this, it's unfortunate they aren't here to listen to your presentation, because it was very good.

You've done a lot of organizing yourself, and you talk about some of the harassment or organizers being fired. There are people who think, even today, that doesn't happen. Of course we know it does, whether it's firing, intimidation, harassment or coercion. Do you have any examples of these things happening, whether to yourself or to some of your colleagues?

**Mr Banks:** A number of examples. My union is presently involved in a campaign in the city of London, where I met with four individuals of the employer. Within a matter of two weeks, two of those four individuals had been terminated. The reason? Business reasons. Our campaign up to that point was sitting at approximately 33%. That

was two months ago. We've signed one card since then. The employees are terrified in there.

**Mr Hayes:** You represent part-time workers too?

**Mr Banks:** Yes, I do.

**Mr Hayes:** That's probably mostly in the food industry?

**Mr Banks:** Yes.

**Mr Hayes:** There are some who oppose the bill who feel that if you have a larger number of full-time workers versus a smaller number of part-time workers, the full-time workers may push through a vote. They are insinuating that maybe the part-time people wouldn't want the same benefits or type of benefits that the full-time workers would. Do you know of any cases where the people you represent, the minority, who would be part-time, would vote against having the same type of benefits the full-time people would be receiving?

**Mr Banks:** My experience has been in the grocery food industry, where the employer tends to hire more part-time employees than full-time. In the cases I have seen, the part-time numbers are almost four to one, yet those individuals do not receive the same rates of pay as full-time employees or the equivalent in benefits. I have found that the majority of those part-time employees are women who are working for better than minimum wage and it's secondary income for them. We're now seeing that we have a large number of part-time employees maybe working for two or three different grocery stores on a part-time basis. The full-time issue of employees in the grocery food industry appears to be going to a part-time basis.

**Mr Offer:** Thank you for your presentation. In the area of certification, you brought forward this whole question of organizers having difficulties and things of this nature. In the bill it says—I'm paraphrasing—that where the true wishes of the employees are not likely to be ascertained because the employer has contravened the act, then the union will be certified. There is a very strong penalty put in here in the area of organizing.

It's a given that we're not at all calling into question the right of an employee to associate or join a union and that the employee should have the benefit of being able to make a free choice one way or the other. This section deals with the area where the true wishes of the employee can't be ascertained because the employer has contravened the act so there's an automatic certification by the board.

If we accept the principle in its truest form, that the employee, the man or woman in the place, must be protected from any contravention of the act, should this section not be amended to also include any contravention by the organizing body, that if that body has contravened the act then that application must immediately be dismissed and cannot be brought back for a period of 10 months to a year? Would you support a change, an amendment, which would address that part of employee intervention?

**Mr Banks:** Based on my experience in organizing, the cases of employer intervention in a campaign far outweigh organizers being involved.

**Mr Offer:** It's not a question of how many; it's a question of the principle. It doesn't matter if it's 99 on one side and one on the other; let's deal with all 100 instead of only 99. It's not a question of numbers; it's a question of employee rights.

**Mr Banks:** I also believe that employee rights, upon signing a card, are protected, are looked after by the organization, the union and the board.

**The Vice-Chair:** I'd like to thank United Steelworkers, southwestern area council, for appearing before the committee this morning, and you, sir, for putting forward the council's views.

The committee has concluded its deliberations in Windsor. We will resume in London at 2:30 this afternoon.

I'd like to take the opportunity to thank the community of Windsor for its hospitality and many of its citizens who have come out to these hearings. I think they're very productive hearings and I look forward to the same type of hearings in London, Ontario.

The committee recessed at 1200.



## AFTERNOON SITTING

The committee resumed at 1436 in the Sheraton Armouries Hotel, London.

## SARNIA LAMBTON CHAMBER OF COMMERCE

**The Chair:** Good afternoon. We were scheduled to start at 2:30 this afternoon. We're a little late getting started because of the travel difficulties but, those having been overcome, we're ready to start with the Sarnia Lambton Chamber of Commerce. If they're present, would they please take a seat in front of the microphones and tell us their names and titles, if any. We've got their written submission that'll be made an exhibit. Please try to leave the second half of the half-hour for discussions and dialogue. Go ahead, sir.

There's coffee outside. That's for people who are here as observers. Participants, make yourselves comfortable and at home.

**Mr Gerry McCarthy:** Thank you, Mr Chairman and ladies and gentlemen. I will preface my comments today with a small explanation, that we have submitted on two different occasions our briefs to the government relative to this bill and the discussion paper that preceded it. I will tell you that the language we will use is substantially more direct than the first presentations we gave. I'm not suggesting it isn't still reasonable and methodical; however, if it appears to be blunt, that's because it is. We hope to get your attention with some of the real concerns regarding the potential impacts of this bill on the business community in Sarnia-Lambton.

Let me begin candidly with the statement that this government—and I will address this entire brief as if it were going to the government. I recognize that some panel members are not all part of that government necessarily.

**Mr Will Ferguson (Kitchener):** But they want to be.

**Mr McCarthy:** But they may want to be.

This government holds in its hand the responsibility to enact one of the most critically important pieces of legislation in the history of this province, legislation that could, if we accept the theories and speculations of those who oppose it, wreak economic havoc on the people of Ontario for decades to come.

Let's just assume for a moment that these theories could be true or even partially true. The fact is, we don't know. Similarly, let's assume that the government's theory is true and that these reforms, so called, will bring harmonious, non-violent relationships to the workplace. The fact is that you don't know.

Our concern is, how can we, the government and the unions of Ontario, be so careless or so irresponsible as to assume that any of us knows the answer? Neither you, the government, nor we, the business community—if you'll agree that there are two sides to this issue—has the right or the mandate to foist any type of uncalculated or untested theories on the people of Ontario or on their sons and daughters. You were elected to govern and protect the welfare and health of our people and our economy. You were not elected to speculate with our futures.

The enormity of these reforms and the tolls they could exact on the people of Ontario dictate that in a free and democratic society we should insist on a consultation process that works, a process that addresses the real issues in an open, honest and productive fashion. To date, we have not found a way of getting a consultation process that actually works. In our former address to you, in fact on two different occasions, we outlined, in what in our view was a reasoned and responsible manner, the very real concerns that we in Sarnia-Lambton had regarding these reforms.

You indicated through the ministry staff that you would take the time to come to Sarnia and review these concerns with members of the business community and labour leaders. On several occasions we communicated our desire to engage in fruitful discussions with the various stakeholders, but to no avail.

We recommended to you a solution that would enable both sides to take the necessary time to rethink their positions and form a consensus model panel in order to accurately and amicably determine the types of reforms necessary to ensure a productive and fair work climate for the province of Ontario, again to no avail.

Now that we find ourselves in the 11th hour of this issue, we will once again restate our significant concerns regarding these reforms. We concede the fact that the Ontario Labour Relations Act will likely see some changes, but emphasize again that for the most part it has been balanced and works fairly for both business and labour.

Clearly, as business people we're fearful of the impact these changes may have. While we worry about our own futures, we want you to understand implicitly that our greatest fear is that these changes could so radically alter the balance of power in favour of unions that we may never, as a province or as a people, enjoy the prosperity and vibrancy that historically has had Ontario as the leading economic power in Canada.

The fallout that may result will be the legacy of your government. The responsibility for this predicted demise will be exclusively yours and, in the end, the very people who supported you into power could be the ones most affected and most disappointed.

Again, nobody knows the outcome—not you, not business and not labour. That being said, we implore you to stop the passage of this legislation until you have taken the necessary time to accurately and definitively demonstrate to the people of Ontario that you are prepared to listen, consult and resolve these contentious reforms to the reasonable satisfaction of all the stakeholders and not the select few whose apparent mission is to ignore economic realities and the will of the people.

Our jobs—my job—our economy and our future as Ontarians will depend on your responsible and caring handling of this legislation in months to come. We challenge you to do the right thing and to see this as a provincial agenda for all the people of Ontario and not as a partisan agenda that repays those who you think supported you. In

the end, you may be repaying them with the greatest disservice of all: no jobs.

In the face of prevailing economic realities your Treasurer, the Honourable Floyd Laughren, said it best in his explanation of Ontario's economic situation when he said: "This underlines the message that the economy remains in serious trouble. Economic renewal that creates and maintains jobs in the future is vital to our province."

We couldn't agree more. To date, you have not been able to guarantee that these reforms will create or maintain one job in the province of Ontario, nor can you deny the speculations that they could in fact cost hundreds of thousands of jobs, depending on whose survey you choose to listen to. Surely with that kind of disparity in numbers you would consent to a more thorough evaluation of the impact of these changes. Responsible, democratic and clear-minded people would do nothing less.

In our original submission to the minister, dated back in January, we identified to the government how highly dependent Sarnia-Lambton's economy is on the petrochemical and refining sectors. Accounting for over 10,000 direct jobs and a like amount in indirect supplier jobs, these companies and their workers contribute significant amounts to the provincial tax base as well as providing the backbone of revenues for our municipal coffers.

We told you about the critical value added contribution that these industries make to the provincial economy. Industries such as automotive, pharmaceuticals, textiles, steel, plastics and rubber converters are dependent on the feedstocks manufactured in Sarnia Lambton, and their contribution to job creation via the multiplier effect is well documented.

We told you that these sectors are globally based and that they can and will invest their capital in jurisdictions that will maximize their return on investment. We told you that there is no inherent need for them to invest in the province of Ontario. Since we told you these relevant facts, we have surveyed these industries to determine what impact the passage of Bill 40, as presently constituted, will have on their future investment plans. While I'd like to tell you that their response was that they're packing up their tents and leaving for the Gulf coast, I can't do that. That's not going to happen. What I can tell you is that the majority of those surveyed indicated that their investment decisions will be negatively impacted as a result of this misguided legislation.

My rhetorical question, then, to the government is that if that's true, where do you possibly think Mr Laughren's "economic renewal that creates and maintains jobs in the future" is going to come from?

Let's speculate that these predictions are only half true. Can you or I, or anybody for that matter, afford to take that risk on behalf of the people of Ontario?

The most significant concern we have is the prohibition against operating during a strike. We have stressed to this government on several occasions that the petrochemical and refining industries operate in an expanding global market and that market share depends solely on the ability of the manufacturer to reliably and affordably supply customers with product. Because these are continuous-process

industries, any impediment to this process results in loss of market share, in turn resulting in loss of jobs. Being a reliable supplier is absolutely vital in today's globally competitive environment.

The buyers of these feedstocks don't sit idly by waiting for a work stoppage or a strike to be resolved. They can and will and do buy elsewhere, and probably from another country. There's never been any assurance, nor will there ever be, that after the interruption they will come loyally flocking back to purchase from you again.

We understand why the government has deferred any decisions to include the agricultural sector in this legislation. Wisely, a task force has been established to determine the impact on what your own government refers to as a continuous-process industry.

We strongly urge you to recognize the parallels and the similarities in our continuous-process petrochemical and refining sector and recommend that you defer any legislation that has the potential to permanently damage their ability to operate and grow until such time as you have legitimately allowed for open, honest and productive consultation among all the stakeholders.

We can find no evidence that any petrochemical plant has ever been shut down in the province of Ontario as the result of a strike. We can assure you, under the provisions outlined in Bill 40 regarding the use of replacement workers, that you cannot operate a plant as complex and as environmentally sensitive as a petrochemical plant or a refinery with supervisory or office personnel. It just can't be done.

Let me be clear here. Neither the chamber of commerce nor the companies which comprise our membership are anti-union. On the contrary, we see our unionized workforce as a key partner in the economic welfare of our community. Frankly, the relationship between members of our manufacturing sector and the Energy and Chemical Workers Union has historically been very amicable. Together, they have demonstrated to the world that through cooperation they are number one in North America for on-the-job safety. Similarly, they enjoy wages, security and benefits that are the envy of the manufacturing sector.

The point is that there is nothing substantially wrong with the relationship between our manufacturing sector and its unionized workforce; it's healthy, it's reasonable, it's productive. The universality of Bill 40 threatens to undo 50 years of building that relationship.

We appreciate that not all sectors have this type of enviable record and admit that there are pockets of workers throughout Ontario who have been unjustly treated. Like you, we are shocked to hear that some individuals, many of them women with limited language skills, are forced to work in sweat factories for \$1 an hour. Similarly, we feel that people who work in their home and work on piecemeal work for ridiculous wages are unjustly treated. We also cringe when we hear about violence on the picket lines.

In both cases, we recognize the problem, but would suggest to you that Bill 40 is not the answer. Each will require an individual remedy and stronger enforcement of the laws. Both of these examples are against the law and



should be dealt with by using the full measure of that law. By reinforcing the mandate of those sworn to uphold these laws, you will have a much better chance of fixing the problem than by passing a bill that has little likelihood of dealing successfully with pockets of injustice.

The prohibition on replacement workers does not deal with the problem in the workforce and penalizes all for the offences of a few. The prohibition on replacement workers will be nothing more than an economic blockade that will impact all of Canada, and at a time when the rest of Canada and indeed the rest of the world is removing economic barriers and blockades, the last thing Ontario needs is to put another one up.

The risks are far too great to comprehend passing this part of Bill 40 without radically altering it. Again, we implore you to rethink your position and engage in true consultation for as long as it takes. We're not suggesting that the Labour Relations Act shouldn't be reformed, but to introduce such sweeping, one-sided proposals at a time when employees and their employers should be reaching out to each other in a spirit of cooperation and understanding is frankly economic madness.

As a border community, Sarnia-Lambton has been pulverized with the effects of cross-border shopping. Add to that the rationalization of our manufacturing sector, the recession, the GST, the worst tourism year in Ontario history, rising unemployment and a very ballooning welfare cost and we've got some problems. We can find nothing in Bill 40 that will improve any of these situations. If anything, our business community has told us emphatically that the passing of Bill 40 will worsen our position for a long time. If you doubt me—and I wouldn't doubt that you do—go ask them. Take the time to go ask them.

Your government needs to understand the very essence of economics. This is not a lecture. The employers of Ontario are the ones who invest their capital, employ Ontario workers, generate the taxes, pay the payrolls that allow our workers to spend their money and contribute to their taxes to your government to manage our programs and maintain our living standards. It really doesn't get any simpler, yet you're prepared to ignore the overwhelming cry that has gone out from every business person in this province. I think we have to stop this madness and start getting down to real business.

We owe it to you and to the unionized workers of Ontario to listen to your concerns and your recommendations. You owe it to the employers of Ontario to do the same thing. The only way this can be accomplished is to work together on a truly legitimate consultation process that brings cooperative, productive harmony to the workplace. I think the people of Ontario are counting on you to do that.

Included in this presentation are a number of additional concerns. I can't go through them all today because they are many and significant, but I do believe that the Ontario Chamber of Commerce—which we contribute greatly to—has addressed many of our concerns in the attachments we've included in the brief that's in front of you.

I'd be happy to entertain any questions that you might have regarding the Sarnia-Lambton business community's concerns.

1450

**The Chair:** Thank you, sir. Mr Offer, Mr Phillips, Mr Brown. Three minutes, please.

**Mr Offer:** I'll be as brief as possible. I note on page 4 your hope that the legislation might be stopped at this point so that the necessary consultation could take place. I'm hopeful that there will be changes to the legislation, but I think you should be aware that we are certainly under a time allocation process where after these public hearings there will be a certain amount of days for clause-by-clause and there is no question that the intent of the government is that this is going to be law before Thanksgiving.

I certainly do agree with the position you've put forward, as a result of some very strong and serious concerns by a number of people, on the legislation, that maybe the government would stop and say, "These concerns have to be addressed." Unfortunately the time allocation motion we're working under will not permit that.

My question deals with the replacement worker issue. You've brought it forward, and you've brought it forward in the area of the chemical engineering scenario. I'm wondering if you might want to expand upon that as to what the impact of the provision might mean in that area.

**Mr McCarthy:** If you're referring to the ability of the plant, the management of that operation, to operate successfully at all under these provisions, the answer is not at all. The provisions as outlined in the amended bill indicate that with some supervisory help, some non-bargaining-unit individuals, you may be able to go in and operate the plant. That's fine for the writers of that legislation, but turn the paper around and ask the operators of those plants whether it's feasible and the answer emphatically is no, it can't be done.

**Mr Phillips:** I share your concerns. The problem we have now is that I think the government members would say, "The business community is crazy in terms of their reaction to the bill, and it won't cost jobs."

**Mr Ferguson:** We've never said that.

**Mr Phillips:** Well, that's what you're saying, it will not cost jobs. I believe it will cost jobs. Our problem is that we're rolling the dice on the future of the economy of the province.

**Mr McCarthy:** Precisely our point.

**Mr Phillips:** I agree with you on that. I'm frustrated because I legitimately don't think any of the government members believe this will cost jobs. I have not talked to a single business person who isn't—a single business person. It's the only issue I've ever seen where privately you talk to dozens and dozens and dozens of business people who say this is going to have a negative impact.

I just want to share with you our frustration, because as my colleague said, the time is set, this bill will be passed, third reading, by Thanksgiving. I think it's going to have a negative impact on the economy. I appreciate the work the chamber's done. Nobody can predict it with accuracy, and

we unfortunately will only know three and four years from now the true impact.

I didn't have a question; I just wanted to share with you a concern that we have about the negative impact, but the challenge we face is to persuade the government members of it. They just don't believe it.

**Mr McCarthy:** Mr Chairman, could I comment just on a relative point that both of them have made regarding the time frame here? It seems that we're in a bit of a time panic here to get this thing passed. I remind you that this legislation has been working for some 45 years and changes to the act have been incremental, and that's really been accepted by both sides as these changes have occurred.

An analogy I can offer to Mr Offer is simply that if a man is standing in the middle of a street about to be struck by a vehicle and his greatest wish in life is to have a stop sign, he wouldn't be too displeased with a yield sign.

**Mrs Elizabeth Witmer (Waterloo North):** Thank you very much for your excellent presentation, Mr McCarthy. I think you have highlighted very well the concerns of the community in Sarnia-Lambton. I'd like to just follow through on a couple of points you made that I think are very important.

You talked about the fact that what the government has attempted to do is to universally apply Bill 40 to all the sectors across this province, and we have been hearing now for a couple of weeks that simply isn't going to work. We heard last week from the retail sector, the grocery area, tourism, the restaurant people. The replacement worker section is simply going to bankrupt those individuals, and I think you've indicated that as well. What this government needs to do, instead of hurrying through and bringing this into law, is an analysis sector by sector. Is that what you would hope would happen as a result of this?

**Mr McCarthy:** I couldn't agree more. In fact that's the point we've emphasized in our presentation, that fundamentally there is nothing wrong with the labour relations. As soon as I say that, of course, someone will suggest, "Yes, but it could be better here and better there." Those are things that can be negotiated among the stakeholders but not legislated through government, and the success of those negotiations, as they have been discussed by both parties over the year, is a matter of record.

So if there's nothing really substantially wrong with this sector, why fix it? This is not a new analogy, but frankly, where there are problems—if there are pink ghettos, then go clean them up. Fix those areas that require fixing. But the universality of this bill is not warranted, it's not required. I have to agree—and I can only speak on behalf of the chamber of commerce in the province of Ontario. If the 65,000 member companies who comprise the membership of the Ontario Chamber of Commerce unanimously agree that this bill will be counterproductive to economic growth in the province, how can anyone suggest that they're all wrong, any more than I would stand up and suggest that all unions are wrong or all union representatives are wrong with respect to their concerns? That's a fool's game.

**The Chair:** Thank you. Mrs Cunningham.

**Mrs Dianne Cunningham (London North):** Thank you. By the way, welcome to the committee, to London. This is where I work, and I know that you'll look forward to hearing from some of the representatives today, certainly from David Winninger and myself.

This is an excellent brief, and we have received this kind of input to the committee. I noticed your editorial comment on page 11 when you said, "If you doubt me, take the time to ask them," and then you added, "And I wouldn't doubt you do." That's our biggest problem here today. When I read these kinds of briefs into the Legislative Assembly, I was met with cries of "fearmonger," which isn't a word that I was used to, but it was one that I heard probably for the first time in my political career.

I'd ask you this: Our recommendation, from the Conservative caucus at Queen's Park, has been that we enter into, as a result of these hearings, some tripartite hearings, a committee, both the business community, certainly the labour community and government. I'd add to that now, because now we're getting the public sector employees, hospitals, school boards and municipalities. I'm wondering what your view on that would be.

**Mr McCarthy:** The best answer I can give you—and I took a page from the minister's, Mr Mackenzie's, own book; not book literally, but his own philosophy. We would look to some of the European communities and start to establish the kind of labour climate they have in Europe.

Now that's a difficult task. You can't take something that's worked for 50 years here and suddenly change it to make it look like Europe. But if that's your goal, if you really think you can do that, start looking at the process they've used. The process they have used very successfully in some countries is this consensus model panel, where the various stakeholders—and you mentioned them—sit together and establish what works without compromising the economic growth of that country.

I would agree with you that if that's the interpretation that we could build into an Ontario system, it's certainly worth trying. But you have to stop where you're going and begin to re-form and rethink what the definition of "consultation" is, and then make it happen.

**The Chair:** Thank you, sir. Mr Huget.

**Mr Bob Huget (Sarnia):** It is very nice to see you again, Mr McCarthy.

**Mr McCarthy:** You too, Mr Huget.

**Mr Huget:** We have ample opportunities to discuss a number of issues, and certainly we've discussed this one before and continue to discuss it. I want to refer to the part of your presentation that really says, I think, between the lines, that if this labour legislation is passed, it spells economic doom for Sarnia-Lambton.

I want to remind you that about 10 days ago, Shell Canada announced that it was very seriously considering a \$300-million investment in Sarnia, partly because of the initiatives that were taken during the provincial budget and the federal budget that, in the view of the spokesman for the company, made Ontario an attractive place to invest.



I think you and I will agree that the workforce in Sarnia, union or non-union, and management in Sarnia, indeed the chamber, have played a very significant, positive role in positioning that community to be able to be competitive now and in the future.

1500

I think everyone involved in those major industries in Sarnia-Lambton is certainly taking that approach, and I've always been relatively impressed with the level of cooperation. Although it is not perfect, I wouldn't go as far, I think, as you do in your brief to say there are no problems. But while it's not perfect, I think it's been a very productive relationship and I see no evidence of that changing.

If you and I can agree that the workforce and the employers and the chamber in our community are working constructively and have relatively good relationships—you mention a safety record that I am even more proud of than you are—I guess my question is: What is there in this legislation that will change that relationship? What is there specifically that will change what has been historically and will continue to be a very constructive approach to the economic wellbeing of our community, not only on behalf of the chamber, but the employers and organized labour as well?

**Mr McCarthy:** Let me answer your question this way, Bob, and I agree with you that the relationship has been relatively harmonious, not perfect, as you suggest, but at least working in a good and productive direction. That being said, why do you want to tamper with that? If it is not substantially broken, why do you want to substantially fix it to the degree that you're suggesting?

Beyond that—I am sure members of the Canadian Chemical Producers' Association will address this later on tonight—you need to be aware of the North Americanization of some of these continuous process industries, not the globalization, but the North Americanization.

What that says in brief is that various multinational companies—and we better get used to that term because that's what about 60% of our economy is comprised of. If they traded globally before, and they will continue to do so, globally at that time or yesterday meant that we would look at Canada as a pocket of investment and the United States as a pocket of investment and within the decision-making processes of those corporations they would elect to locate various capital dollars in each of their jurisdictions economically, whether that included Europe, Asia, South America or otherwise. The trend will be towards the North Americanization of those marketing blocs, meaning that Canada will be lumped in with the United States, not Canada separately from the United States.

This bill has some really serious ramifications if it passes as it's presently constituted, because there will be no decision as to where in Canada we will locate our next plant or our next major expansion; it will be where in North America. I don't care about the realities, Bob, I'm more concerned about the perceptions, because you know dollars go where they're perceived to be welcomed. If they go to the North American bloc now and look to locate, you tell me they're not going to locate in the US versus Can-

ada, because there will be no decision to be made if the North Americanization of our process industries continues. That's my concern.

**The Chair:** Do you want to respond to that? Because if you do, you've got to do it briefly.

**Mr Hugel:** I will, just very briefly. I think it's safe to say that I don't share some of the concerns you put forward. I do understand fully, though, the perception issue, and I understand that that can be a problem. I guess if there's anything that saddens me, Gerry, it's exactly that.

In many cases, we're dealing with—and certainly not from you, so please don't take this personally—rhetoric and non-substantive sort of allegations that have created a perception that unfortunately just isn't quite reflecting of fact. Had everybody decided to treat this legislation and discussion of it on a rational basis, on the basis of fact, I think it would have been a far more constructive process.

In terms of the North American issue of our industry, in Sarnia-Lambton if you want to market a product that's in the largest market share in North America, the most heavily populated area of North America, a community that has the infrastructure and the skilled workforce and an eight-hour drive from the major markets of our industry, I still think it's a darned good place to invest and I still think that companies will invest in Sarnia-Lambton. My reason for saying that, Gerry, is simply Shell's announcement that it finds Ontario an attractive place to invest.

**The Chair:** Sir, I think I've got to tell you I think our time is up. We've got to move on. Mr McCarthy, thank you on behalf of the committee for appearing here, speaking on behalf of Sarnia Lambton Chamber of Commerce. It's important that you've been able to participate, and we're grateful to you.

#### SIMCOE AND DISTRICT LABOUR COUNCIL

**The Chair:** The next participant is the Simcoe and District Labour Council. Will the people speaking on behalf of the Simcoe and District Labour Council please come forward, have a seat; tell us your name and your title.

**Mr Peter Leibovitch:** Peter Leibovitch, president of the Simcoe and District Labour Council.

**The Chair:** We're going to distribute the written material you have. Carry on with your submission. Please try to save the last half of the half-hour for discussion.

**Mr Leibovitch:** My name is Peter Leibovitch, and I'm president of the Simcoe and District Labour Council, representing approximately 4,000 workers, and also president of Local 8782, the United Steelworkers of America, representing the workers of Stelco's Lake Erie Works near Port Dover.

I'm here today because the organizations and members I represent firmly believe in the need to amend the existing Ontario Labour Relations Act. I am not a lawyer and will not argue the merits of the proposals for amendment on legal or technical grounds. I'm an industrial mechanic by trade. Most of the members I speak for are blue-collar workers, the people who have traditionally been shut out of the decision-making process.

Aside from voting for governments every four years, we've had no opportunity to participate in shaping the economic wellbeing of our society. Over the past half-century, the trade union has been the instrument by which working people have been able to fight for their fair share of the wealth they helped create.

The main positive result of the process of unionization in North America has been the creation of what we call the middle class. Hundreds of thousands of miners, steelworkers, auto workers and other union members were, for the first time in history, able to afford to own their own homes and cars; they could take a trip to Florida; they could send their children to university. In short, it is no exaggeration to say that social stability was guaranteed by the union movement's success.

It's a curious fact that the current debate on the need for labour law reform has seen logic turned on its head. When business groups portray Bob Rae as Karl Marx, and respected trade union leaders like Leo Gerard as greedy bosses, they are sowing the seeds of class warfare. By saying there's no place for unions in our society, they are declaring war on the very institutions that helped keep the social peace in Canada.

There are those who concede the importance of unions, but only grudgingly as a necessary evil. The existing Labour Relations Act reflects this view, resting on the proposition that the relations between workers and management are adversarial by definition. What the law does, then, is simply provide the rules and regulations to keep the warfare between the two parties within acceptable bounds.

The proposed changes to the law reflect a different attitude and philosophy. They assert in the first place that unions are a positive force in society, that unions are the instrument through which working people may empower themselves. This new point of view addresses not only the traditional question of how wealth is distributed in society, but the more fundamental matter of how wealth is created.

It seems to me that the business community's anger about the anti-scab amendment is phoney. After all, if the proposed amendment had been in effect last year in 1991, it would have affected only five workplaces in the manufacturing sector. The real source of their outrage, I believe, lies elsewhere.

The core of the debate on this legislation goes to the essential question of the role of workers in our society. Are we to be included as partners in a truly democratic and inclusive society or, as the corporate opposition seems to want, will we remain faceless, voiceless drones at the beck and call of our boss, with no role other than to obey orders? If the latter is not the case, how, then, can we explain why workers are so often accused of disloyalty when they seek to join a union? Why do companies fight so hard to prevent unionization? Why do many apparently respectable corporations stoop to blackmail when workers do join unions, saying, "If you join the union, we will close the plant."

1510

At Stelco's Lake Erie works, where I represent 1,000 workers, we have achieved something new and important

primarily through the proactive stance taken by the union. The interests of both the company and the workers have been advanced because we have insisted upon our right to be consulted and involved in the process of change going on in the industry.

In fact, we believe that Stelco's Lake Erie works should be an example for Canadian industry at large on how to survive in the intensely competitive environment. In the midst of the most serious recession in a generation, my members are among the most highly paid in the North American steel industry and yet the plant remains among the most competitive in the world. The secret of our success is that new technologies have been introduced with direct involvement by the workers themselves. As a result, drastic cuts in the costs of production have been achieved through cooperation, and my members retain both their jobs and earning power.

At Lake Erie works, the union has fought for the right to be involved in decision-making with the company at all levels. We have also argued, with some degree of success, for changes in the basic nature of work on the shop floor. In other words, we have challenged and transformed the old master-servant relationship.

At Lake Erie works, our contract language guarantees us the right to limit contracting out. Conventional wisdom claimed this would only increase the cost of production; reality has demonstrated the opposite. And, yes, it took a strike to win that concession.

We also have language guaranteeing an equal say in restructuring. We use the resources of the shop floor—the skills, knowledge and experience of our members—to increase the efficiency of production. Similarly, we have won the right to involvement in continual training to constantly upgrade that shop floor resource: the workers' skills and responsibility.

All these gains—let me repeat, they work both ways—are characteristic of a well-paid, active, responsible workforce, workers with a stake in their employment. These gains could have been achieved only through the union. My members have the rights they enjoy because they are represented by a union that brought them to the bargaining table as an equal partner.

One final point: The bargaining table is not static; it grows all the time. We don't live in a classical capitalist environment any longer. There are no more single owner-operators. Like most other industries, the steel industry is made up of a lot of powers and interest groups: the banks, the shareholders, the board of directors, the consumers—particularly, of course, in the steel industry, the auto industry—and the workers who make the steel.

It is essential now more than ever before that the workers have a strong presence at the table. We believe that only the union can give them that presence. This is why we believe the amendments to the Ontario Labour Relations Act must be adopted quickly and in the new spirit of goodwill which they represent.

**The Chair:** Mrs Witmer, Mrs Cunningham, five minutes, please.



**Mrs Witmer:** Mr Leibovitch, you've made some very serious allegations here. You've indicated that some very respectable corporations stoop to blackmail when workers join unions. Can you name those respectable corporations that have stooped to blackmail?

**Mr Leibovitch:** I can quote from the public press. For example, Ron Foxcroft of Fluke Transport said that if the Ontario Labour Relations Act law was changed, he would move his operation to Buffalo. I can tell you about a respectable petrochemical company where, when there was an attempt at unionization, it was considering which plants would be shut down and it made it quite clear that one of the reasons it would consider shutting down a plant is if it had a union. I can talk to you with first-hand knowledge of people with whom I've worked who have been fired for attempting to organize plants. It's very common. Actually, all you have to do is read the Ontario Labour Relations Board reports on section 89 violations.

**Mrs Witmer:** So that's your definition of blackmail.

**Mr Leibovitch:** If you were told that if you join a union you will lose your job, I would say that is blackmail of the worst kind.

**Mrs Witmer:** You go on to say, "The business community's anger about the anti-scab amendment is phoney." Now, we just heard from the Sarnia Lambton Chamber of Commerce about the impact the replacement worker section could have on the petrochemical industry. If they were closed down, they could lose their customer base and obviously the people they supply would no longer have a need to come to them. In fact, we heard from a grocer last week that when his business was shut down because of a strike, it took him one year to get back the business he had. Would you consider these claims to be phoney concerns about that section?

**Mr Leibovitch:** There's a two-part answer to your question.

First of all, on the question of safety of plants and maintaining their capacity to produce, even in the unionized sector where there are strikes, for example, in the steel industry, we've always had agreements on picket lines. For example, the coke ovens have to maintain constant operation 24 hours a day, 365 days a year, and even in the process of strikes we've allowed and agreed to make sure those facilities are maintained so we have our jobs to come back to.

On the question of who suffers because of a strike, yes, it's true that a business will suffer and the workers on the job suffer. I could say the same in terms of people who lose their earning power for maybe three, four, five months of a year, understanding that we do not get covered under UI or welfare benefits when we are on strike. We make \$100 a week and it takes those members who are on strike maybe a year or two to make up for their lost wages because of that strike.

Unfortunately, it is the kind of labour relations atmosphere that we've created where we say that the ultimate method of arbitrating our disputes is a strike. It's a two-edged sword. Both management and the workers get hurt by a strike, there's no doubt about it. That's why there are

very few strikes when you take a look at the amount of unionization and the relationship between that and the number of strikes that go on.

**Mrs Witmer:** Let's go back to the comment you made about the business community's anger about the replacement worker section being phoney. Would you not agree that, unfortunately, you can't apply Bill 40 universally across all sectors across the province? There are going to be sectors where, if you do implement that piece of legislation, employees will lose their jobs because customers simply will not be there if a company is forced to close and is not able to continue to function. Do you not think there's a need for more discussion around Bill 40 on this issue and a need for some amendments?

**Mr Leibovitch:** What you're saying is the classic argument by companies of why you shouldn't have a union. We're not dealing with the nature of labour relations in your question. You're saying that if you have a union, you have the right to strike; therefore, that might harm the business, so you shouldn't have a union.

What I'm saying and you're misreading—

**Mrs Witmer:** No, I did not say that.

**Mr Leibovitch:** I am sorry; I'm taking—

**Mrs Cunningham:** That's fearmongering on your part.

**The Chair:** One moment, please.

**Mr Leibovitch:** Excuse me, I'll answer and you can say what you say.

**The Chair:** One moment. I'm indifferent as to whether two or three or four people talk at the same time. However, the Hansard staff have a heck of a time deciphering that. Out of courtesy to the Hansard staff, and perhaps to the people who are trying to listen, could people talk one at a time? Go ahead, Mr Leibovitch.

**Mr Leibovitch:** I think also you're taking it off track. If you take a look at what I'm trying to say, it is that if you grant workers the right to a union, you're empowering those workers and you're giving them the opportunity to take more responsibility in their working lives and in the success of the industries they work in. If you take a look at unions as a negative factor, if you see that the only thing the union is there for is a strike, then it leads you to that line of questioning. I think that has clouded the whole debate on the Labour Relations Act.

**Mr Kimble Sutherland (Oxford):** Mr Leibovitch, in your presentation it seemed to me that you were outlining a very important point, that is, that workers do have a vested interest in the success of their company. They want to see companies succeed because that means their jobs are going to be more secure, particularly as we move into a more North American trade environment and a more globalized trade environment.

If you're in a workplace environment, whether it's unionized or not, and you have good labour-management relations, do you see Bill 40 affecting those at all?

**Mr Leibovitch:** Actually, many of the amendments that are now being discussed in Bill 40 have to do with making the procedures under the Labour Relations Act

much more efficient and much easier to handle from the point of view of both the union and the company. The speeding up of the arbitration process, giving the right to the arbitrator to handle more than just what's in the collective agreement, the encouragement to use dispute resolution mechanisms to avoid confrontations, are all things that lead to better relations between the workers on the job and management. Those are things that have not been discussed much publicly at all.

1520

**Mr Sutherland:** Earlier too in your presentation you talked about threats of closing down plants if they unionize. We've heard arguments that currently there is a level playing field in the labour relations environment. Given those comments you made earlier, do you feel there is a level playing field, and if there isn't a level playing field, what steps are needed to create a level playing field?

**Mr Leibovitch:** I think the concept of a level playing field is a misnomer. There's never been a level playing field in workers trying to organize themselves. Most workers approach a union under the threat of losing their jobs, in most instances, and even if they lose their job and get it back, normally it's about five to six months after they've been fired. The intimidation factor has already played its course and it impacts on the bargaining unit that's trying to be organized.

I would say that in order to have a level playing field—and I don't think this legislation gives you a complete level playing field; it still keeps a lot of power in the hands of management—it would be the acceptance that workers have a role in industry and have a role in the places they work and management's acceptance that workers, as an organized voice, strengthen that industry and strengthen its ability to compete in today's world.

We can get all the laws we want, but we all know that if you have a lot of money and a lot of power, there are ways to circumvent those laws or at least stall them from taking effect. In organizing campaigns, that happens quite a lot. Having some of the changes we have now to the law, particularly getting rid of the counterpetition, will create a little more of a level playing field.

Just picture yourself in a plant where you've signed more than 55% or 60% of the cards, and then somebody who's pro-company comes to you on the shop floor and says: "Will you sign this petition saying you're against the union?" You know that if you don't sign this petition the foreman or manager will find out immediately, and you know what the result of that knowledge being transferred to the management will be for you in the future if the union is not successful. You may smile at that, but when you're making \$8, \$9, \$10 an hour and you don't have a job to go to after you get laid off or fired, it's not a very happy proposition.

**The Chair:** Mr Winner, quickly, please.

**Mr David Winner (London South):** Mr Leibovitch, you heard the last presenter say never mind the reality, the perception is that our modest labour reforms will drive investment from Ontario. Given the experience in other countries, given the fact that the unionized work-

places tend to be more productive, given your own experience in Simcoe, where enhanced worker rights actually increased productivity, why do you think the employer community persists in this misguided concept that our modest reforms will drive out investment?

**Mr Leibovitch:** I think we're dealing with a question of rights as opposed to privileges. There are many employers, especially in the non-union sector but some of the employers in the union sector, who have contributed to the campaigns. I don't understand why, because they've been very successful in Ontario. But there are employers, by the way, in the unionized sector that have no real problems with these changes. Contrary to what I heard before, I've spoken to employers who haven't seen these changes as at all hurting their chances in the business community.

I think what has occurred here, as in many other things, is that when you take a privilege and make it a right, those people who have enjoyed granting that privilege feel that their power has been limited. Yes, in a sense we're granting more powers to workers on the job to participate in the economic decision-making of their day-to-day lives. I don't see that as anything but constructive and positive.

I think the crux of this whole debate is whether you see unions as subversive, disloyal organizations or whether you see unions as being a positive force in a democratic society. I think the whole of the debate against unionization is basically a contemptuous attitude towards workers.

Again, not all businessmen have spoken that way, but there are those who have a vested interest in keeping unions away. Let's be frank and be factual about it.

For example, in the steel industry, whether you're unionized or non-unionized—if you've been reading the trade papers lately, Dofasco, which made a reputation of not being unionized, is going to have to cut its workforce by over 5,000 workers and has lost a lot of money because of the nature of the economy in a North American climate today. That has nothing to do with unionization. I would in fact go so far as to say that if Dofasco had a union and had good relations with its workers in a unionized atmosphere, it might be able to handle those changes in a manner that would be more healthy than the way it is going to handle it in the next couple of years.

**Mr Phillips:** Just a couple of comments and a question: Earlier this morning we heard the NDP member from the federal House saying the relationship between the workers and the company at Dofasco was very good, just for your information.

This has been a very useful brief for me, because it highlights, I think, the polarization. I think it's tragic, in many respects. Words in your brief like "sowing the seeds of class warfare" and "phoney" illustrate for me that we unfortunately have divided up in camps on this thing. I think one side or the other may be right. Unfortunately, if you're wrong and the business community is right, we've got some serious problems.

My question is this: I follow very carefully the Ministry of Labour closure statistics, as I'm sure you do too. I've followed them for the last 18 months. These are plants with 50 or more employees that have closed. As you no



doubt know, although the workforce is about a third unionized and the private sector about 20%, 70% of those who have been laid off through plant closures have been unionized—many Steelworkers, as I'm sure you know, and CAWs.

So in terms of looking ahead at the positive aspects of this legislation, when so many of the jobs being lost, so many of the plants closing are unionized—and it's actually accelerating: year to date, we're up 30% the first seven months of 1992 over the first seven months of 1991. It doesn't look like it's abating. I'm really worried about that, because it is our major industrial base, our major economic base, and many of the unionized jobs.

In both your role as the labour council president and in your role as president of one of the major steel locals, and recognizing that these plant closures must be, I would think, your number one priority, can you tell us the two or three things in this legislation that will help your members to deal with their livelihood and their plant closures?

**Mr Leibovitch:** Again, we're dealing on two levels. I don't see this legislation as a panacea to our economic troubles because, as you probably know—and you know the statistics better than me, especially with your background—these plants were shutting down with or without Labour Relations Act changes. So if you're asking whether it's going to immediately create jobs or stop these plant closings, there's a lot of non-union plants south of the border that are shutting down right now. There are people being laid off right across North America at a pretty rapid clip, especially in basic industry, primary industry and the manufacturing sector, which is very scary. It should be scary for everybody, because that's the basis of our economy.

If you're asking how this could help, I believe the only way we're going to survive is by creating the kinds of jobs which sustain the society we have enjoyed for the last 50 years, particularly since the Second World War. Those jobs are basically technologically advanced and highly skilled jobs.

1530

It's the role of the unions—and by the way, if you read my brief, I accused the business community of sowing the seeds of class warfare. If you read the brief closely, I talk about how the union movement has to be involved, and the workers on the job, not only on the question of how you distribute wealth but how you create wealth. What is the role and responsibility of all sections of society in producing a healthy economy?

If anybody has a stake in a healthy economy, obviously it's the union movement. We're not there to shut jobs. We're there to keep jobs going, to keep them open. We have to be involved much more closely with corporations in dealing with questions of how to expand our technology, our capacity to produce and our efficiency. I believe that's where the labour relations amendment, the spirit of the amendment and some of the things after the union is in—nobody's talking about what happens after the union gets in, except for the anti-scab law. There are a lot of ideas in here about how to encourage cooperation between

the union and management in terms of dealing with the new technologies and in terms of giving workers a say in their role on the job and creating more efficiencies.

I'll give you one example in our plant. I talked about contracting out. It used to be, among experts, that if a union took over limited contracting outright, costs would go skyrocketing because we would then demand that all the jobs be in-house, and the prices would go way out of line. The fact is—and you can check with Stelco—that just the opposite happened. One of the reasons we cut the costs of production so much is that we increased the efficiencies on the job so we didn't need to use contractors and contracting-out services. We did it in-house. It took a lot of reorganization on the shop floor, which our people actively participated in with a great degree of success, so much so now that the company is advertising this as one of its successes in dealing with the workforce. That is an example of proactive participation by the workers, the union and the company together.

**Mr Phillips:** There's nothing in the bill, though, that will help you.

**Mr Leibovitch:** As I told you, in the bill they create structures, an employee-employer dispute resolution mechanism of speeding up the processes, of encouraging the Ministry of Labour to be more involved with problems before they get to arbitration, before they get to the strike area. It is also a way of encouraging the union to get involved in the day-to-day decision-making process of how that plant's run, not only in terms of dealing with contracts every three years.

**The Chair:** Thank you, Mr Leibovitch, for appearing today on behalf of the Simcoe and District Labour Council. You've made a valuable contribution to this process. We appreciate your coming here to London to speak with us this afternoon. Take care.

#### FORM AND BUILD MANAGEMENT INC

**The Chair:** The next participant is Form and Build Management Inc. Would the people speaking on its behalf come forward and have a seat and tell us their names. Their written material has already been distributed. It will form an exhibit. Proceed, if you will, with your submissions. Go ahead, please: your names, titles if any, and your comments.

**Mr Bill Ross:** Essentially, we are three small business people from London. My name is Bill Ross. I have with me Mr Garry Turner and Mr Gerald Slemko.

**The Chair:** Welcome.

**Mr Ross:** Thank you. Before I get into the text of our presentation, I would like to make it very clear that we're not interested in any type of warfare whatsoever—it's enough to keep our businesses going today—but we felt your task force was important enough to take time to put this together for you.

Mr Turner, Mr Slemko and myself, as I explained, have chosen to come to you today, first, to clarify that this is not a union versus big business issue and, second, to provide input from the perspective of the small business

entrepreneur, a perspective we feel has been given insufficient importance in the deliberations to date.

Studies commissioned at all levels of government in recent years are being used as cornerstones for the economic growth strategies of the 1990s. They unanimously concluded that virtually all employment growth of the 1980s sprang from the small business sector. This trend will only accelerate in the 1990s, as large business continues to automate and downscale its labour force to stay globally competitive.

We therefore feel these essential individuals to your scheme for economic revitalization should have their concerns regarding this and other pertinent proposed legislation carefully examined before changes are implemented, something we feel has not been done effectively to date.

Currently we are mired in an extended recession that has seen a record number of bankruptcies and plant closings. To reinforce that, I've enclosed the most recent article from the *Globe and Mail* that has the statistics. You will find that as the last attachment to our presentation.

Unlike recessions of the past, where business closings were offset by a large number of new businesses being created, the current one has not experienced this phenomenon. There are several reasons for this, but I can assure you one of the main causes is overintrusion from all levels of government into the business sector, deterring many aspiring entrepreneurs from creating the businesses and employment we so desperately need.

The proposed changes in the labour laws, in our opinion, have more potential to further shrink and weaken an already harried and spirited business sector than any of the recent enacted government reforms. The timing of these proposals at best appears questionable, and our concern for the apparent lack of study into their long-term economic impact as it relates to small business leaves us apprehensive and deeply troubled.

This apprehension appears widely shared, as it has manifested itself as the catalyst for the formation of a swelling number of small business organizations being formed solely to oppose these changes. This phenomenon is unprecedented in the business history of this province, a testament to just how widespread and vehement opposition to these changes has become.

It is our understanding that in the recent years the Ontario Labour Relations Board has decided, in over 90% of the cases brought before it, in favour of the union and has made decertification almost a non-existent practice. In light of this, we question the need for including measures to enhance the Ontario Labour Relations Board's power and increase its pro-union bias. Our feeling is that the current legislation should be more closely examined as to whether it is equitable to all involved parties before granting additional powers to the board.

As an example of what it's like to appear before the board under current legislation, Mr Turner will recount his experience before the board. Garry?

**Mr Garry Turner:** This is an experience I went through last year, actually. I was part-owner of a construction company that employed between 13 and 25 people, several for up to eight years. The local union tried to have

the company certified through the employees several times. They showed no interest. In January 1990, we were in the process of hiring four employees from a defunct company which actually was a competitor, which had an agreement with the union local.

The union brought a claim against the labour relations board that our hiring of these employees was an effort to defeat the union of the defunct business, because one of the employees was considered to be a key asset. The decision was rendered that the employee in fact was an asset of the defunct company and therefore it was considered a sale of business. Therefore, our business was bound by the union's collective agreement and consequently our firm was unionized.

The company, after realizing an average growth of 17% a year over 11 years in business, as a result of this decision had its market reduced by 45%. Our total revenue the following year dropped 40% and 10 employees lost their jobs. The remaining employees have reduced hours. After 11 years I felt obligated to leave, because the business could no longer support two active partners.

1540

The hearing before the board took one and a half years, our defence costing approximately \$20,000. The board made this decision with no regard for the wishes of the employees, despite their expressed opinion to remain non-union. It also determined that I do not have the right to seek employment where I desire, for now I am considered a saleable asset and can only seek employment with a unionized firm. I question the ruling of the board in that the business and employees have both suffered by its ruling, with neither party having an effective say. The labour relations board should represent all labour, but it did not in this case.

In a letter dated June 19, 1991, to Marion Boyd and forwarded on July 5 to Mr Mackenzie, Mr Mackenzie states: "The Ontario Labour Relations Board is an independent tribunal with the exclusive jurisdiction to decide matters properly before it. I am sure you will appreciate that I cannot comment on the decisions of the board or in any way interfere in its deliberations."

It appears that this panel may be in a position now to make some recommendations to the board. I have some listed here: that the Ontario Labour Relations Board be representative of the labour population it is intended to support, over 60% of which is non-union; that the Ontario Labour Relations Board be accountable for the process and decisions it makes to a second body; that the Ontario Labour Relations Board undergo intermittent reviews of its procedures and decisions by a second, impartial group; that the Ontario Labour Relations Board consider and respect the choice of employees in labour matters as well as that of union leaders and set aside ample time to hear applications for decertification as well as certification.

That's all I have. Thank you.

**Mr Ross:** I've included a comment here that Garry made to me as we were going through this. He was referring to his experience, and his comment to me was, "The small businessman does not have a chance against big unions



who have lots of money and people hired exclusively to organize."

The apparent loss of personal freedom of choice, both to the employee and the business person, that appears inevitable under these proposals will certainly lead to fewer entrepreneurs being enticed into investing in our province. Entry barriers to business creation are too overwhelming and rewards too few to entice the risk-taker into the marketplace. Governments must realize they bear a significant responsibility for suppressing the entrepreneur.

Mr Slemko, who currently operates several enterprises in the province, has other concerns, particularly that this legislation and its impact is being viewed more in isolation as opposed to the total context of heavier government involvement in the private sector, which cumulatively has increased the cost of doing business in Ontario significantly.

**Mr Gerald Slemko:** As Bill mentioned, I've been involved in a number of businesses in Ontario, both in the service sector and in the manufacturing business. Prior to that I was a chartered accountant and have worked with small business for a number of years.

As I sat down and looked through the proposed changes to the Labour Relations Act and talked to a number of acquaintances and businessmen, I started to realize that the impact of these changes is something that really must be evaluated in a broader context.

When I first started out in business in the early 1980s, most of my attention was spent on business strategy. We were looking at competitors, market analysis, financing, the things that are necessary to make business successful. But as I look back over the last 10 years and evaluate where my time is being spent as a businessman, the focus has changed. It's changed dramatically from competing to a situation where our time, my time, employees' time, is spent complying with government legislation.

Over the last five years in particular we've seen a major onslaught or barrage of legislation which has limited business not only in its ability to function but has forced a reallocation of resources to compliance rather than a reallocation of those resources to development, the execution of business strategy and being competitive in a marketplace. For the last three years alone we've seen the GST, environmental laws, pay equity, proposals for employment equity, pension reform, labour act amendments and others. I have no objection personally to the plans. I think it's important that there be legislation to protect employees, but the cost of complying with this legislation is becoming a major task for small business.

This does not create one job and probably results in the elimination of many positions in business. If we were able to take the resources that we allocate to compliance and interpreting and reallocate these to marketing, product development and technology, we'd ultimately create more jobs and be more competitive in this province.

Business is being continually inundated by legislation. It's difficult to understand, as Garry talked about in his situation, it's difficult to comply with and it's difficult to absorb at the rate it keeps hitting us. It's also making us a less competitive environment.

Understanding, interpreting and applying labour legislation on top of all this is creating a dilemma for business. We really need to have a moratorium on legislation until we try and catch up and adjust and are able to deal with the changes that have already occurred.

As we look around, we've seen the world has changed. We've seen changes occurring in the Soviet Union and eastern Europe; we've got the European economic community; we have a US-Canada free trade agreement and now we have a North American free trade agreement, all in the course of two years.

When I started in business in the 1980s my competitors were Canadian. With the breakdown of the borders and the globalization of business, I'm now faced with world competition. To be successful, I must be competitive on a global basis.

When the minister introduced the proposed changes to the Labour Relations Act in the Legislature he commented in his opening remarks that one of the intents of the legislation was to recognize that Ontario must be competitive in an international marketplace. As I look through the proposed amendments, I wonder whether the minister really understands what it takes to be competitive in the marketplace today.

It is important that the proposed amendments to labour legislation be assessed in a global environment. We're not competing with Canadians today; we're competing with the world. Labour is becoming a commodity. It moves to the country with the lowest cost. The question we need to ask is: How are we going to be competitive in this international marketplace?

The Ontario government has just introduced a discussion paper for an economic strategy for Ontario, yet we're talking about major amendments to labour legislation without having first discussed and implemented an economic strategy for the province, which is undergoing dramatic economic changes. It would seem to me that we're putting the cart before the horse. Ontario as we knew it in the 1980s no longer exists. We're currently going through not only a recession but an economic restructuring, the impact of which we still don't know.

The government must focus on economic revival in a changed world. Job creation must be at the heart of this economic strategy, and to create jobs we must make Ontario an attractive place to invest, to work and to live.

I believe that the proposed amendments to the labour legislation do not achieve these goals. The legislation I believe is punitive to business, particularly small business. It adds one more piece to an already complicated equation and will deter further investment rather than encourage it.

As Bill mentioned and as we all recognize, small business will continue to create more and more of the jobs in the province of Ontario. Our ability to compete, to be successful and to earn a return on that investment is what's going to create jobs in this province. The labour legislation isn't going to create jobs. The proposed amendments to the labour legislation do not encourage further investment in this province.

I personally want to contribute to the growth and prosperity of Ontario. I believe in Ontario. But I also believe

that the proposed amendments to the Labour Relations Act are premature, do not take into consideration the reality of a changing world and will deter future investment in Ontario.

**Mr Ross:** We strongly advocate that governments immediately focus on the revenue-creating side of our society rather than the spending one, given the huge negative fiscal imbalance that exists because business is incapable of maintaining revenue growth at a rate to match government's ability to spend.

The surviving small businesses in Ontario are virtually in the same mode, a survival one, where reducing operating costs is essential to offset shrinking revenues. This too often means reducing one's labour force or forgoing hiring new employees, a decision being made increasingly easier by governments which, through their desire to legislatively intrude into the operations of business—too often, I might add, to satisfy political and philosophical goals—make the cost and the trouble of increasing employment a poor investment decision.

1550

Your proposed legislation we believe will be a major disincentive for the small businessman to increase his labour force, for by so doing he becomes a more attractive target to dues-hungry unions that have no apparent concern whether the employer is fair but rather how much they can add to their coffers.

Certain entrepreneurs who are surviving, and some even doing rather well, refused to join us today for fear that recognition would draw attention from both government bureaucrats and union organizers. This statement alone is a sad commentary of where today's governments have led us. It's a statement that says the entrepreneur who built the wealth of this society is now afraid to talk to or be seen by those who govern it.

In short, our fear is that this legislation is not an issue about union versus big business, but rather big union versus small business. I thank you very much for your attention. Are there questions at this point?

**The Chair:** Yes. Mr Winninger, three minutes, please.

**Mr Winninger:** I think I can agree, first of all, with you on a couple of points. One is that small business creates the lion's share of jobs and, second, there will always be places where jobs will migrate, where lower wages will be paid, where poorer working conditions will exist, where environmental and health standards might be ignored. I can agree with you that far.

The challenge to us is, how can we create well-paid, high value added jobs in a cooperative and productive working atmosphere? I would ask you, do you in your small businesses enjoy a cooperative working relationship with your employees and, if so, how can our modest changes to the OLRA possibly impact on that harmonious, productive working relationship? I would particularly like to hear from Mr Turner, because I'm somewhat mystified as to how unionization led to a loss of 45% of your market in your former business.

**Mr Turner:** Essentially the reason is that it funnelled our business into one certain direction. We weren't al-

lowed to do certain types of work, because we'd be infringing on other locals or other unionized trades. Before we were certified we did a gamut of different types of jobs and that marketplace was taken away from us. That's pretty well it.

**Mr Winninger:** By whom?

**Mr Turner:** The charter of the union we signed with. We're not allowed to take work from the electrical workers or the steelgriggers.

**Mr Sutherland:** Just one additional question: You mentioned in your presentation how small businesses are attractive to unions in terms of organizing, but from my experience talking with union organizers, they tell me that the majority of drives they undertake are at the request of employees contacting them. So I'm not quite sure how you make that assertion.

Just in terms of competitiveness—you mentioned competitiveness—it seems to me that to be competitive you need a good product or service that you're offering, you need a well-motivated, trained workforce and you need to have a dynamic approach to business to respond to where the new needs are. I don't see how Bill 40 affects any of those elements of being competitive.

**Mr Ross:** Are you addressing me?

**Mr Sutherland:** Sure, and maybe this is something you can comment on.

**Mr Ross:** From your opening comment, I think you must have taken the text of this incorrectly, because what we're in fact saying is that small business is comfortable, that we can hide. The larger we get, the bigger we become a target, because they do tend to go after the larger companies and they've got the majority of them unionized now. We were concerned about growing the companies and becoming a target.

**Mr Sutherland:** My question was not so much unions going after them but employees calling unions to come in and conduct drives.

**Mr Ross:** In that one, Mr Turner probably could—it gets very dicey. I've heard that comment many times. I've talked to union organizers. In many cases I know that is absolutely not the reality. They go after the workers. They have full-time organizers. These guys are out trying to pay their bills, pay their taxes and keep afloat. There are guys fully committed to signing up people, and there are quotas and they have to get people on those cards. We don't have that luxury.

**Mr Slemko:** I'd like to address Mr Winninger's comments about the workforce and how this bill would in fact affect us.

One of the companies I own is in the service industry. We bought it 10 years ago and we had about 10 employees. Today we have just under 100 employees. We went from a company that was not existent or not competitive in a marketplace and today we're probably the number one competitor in our market.

We are in the service industry. We operate 365 days a year, 24 hours a day. We provide service during that period. To the extent that we were unionized—and as we've become



larger, we've become more attractive—we risk the right of lockout, no replacement workers. We'd lose all our contracts of supply.

The telecommunications industry has experienced tremendous technological change over the last few years. American competitors could come in and very quickly, without even establishing an operation in Canada, take over our business.

**Mr Winninger:** Have you had a strike?

**Mr Slemko:** No, I'm not unionized.

**Mr Offer:** Thank you for your presentation. I was listening very closely to the questions by the government members and certainly to your responses to those questions. I certainly do hope that the response they heard dealing with how this bill may impact upon you in your job-creating role is one which is taken to heart when we deal with the bill.

Certainly you know that a great deal of the discussion talks about the fact that we are dealing with a bill, the impact of which we really don't know. There have been some concerns that it's going to cost X amount of jobs and X amount of billions of investment; there are those who refute that.

You are saying here, based on your information, that this study, the way I'm reading it, is an absolute precondition to going forward on a bill of this kind. Before we deal with a bill of this nature, let's deal with what the impact of the legislation will be, good, bad or indifferent; what it means to the retail sector, the agricultural sector and the manufacturing sector, and what it means to the creation of jobs and the creation of a perception of investment. I'm wondering if you could share with the committee your thoughts as to the need for an impact study.

**Mr Ross:** If I could start, I mentioned that there has been a grass-roots swell of small business organizations that have sprung forward because of the concerns of this legislation. Many of these organizations, whether you feel they're biased or not, have commissioned studies, and in every study I have seen the impact is extremely negative.

I'm quite prepared to look at a balance on the thing, and we've posed questions several times to union people and so forth: "What is the need for the changes? I don't understand them; I really don't. Give us some studies. Substantiate something, or let's get involved in a bipartite study, and that way there can be no mistrust."

This has been absolutely, flatly rejected. I have to be honest with you: It creates real concern and scepticism on our part as to why we're going forward with this. That's really the only answer I can give you. It's very troublesome.

**Mr Offer:** Thank you for the response, because it's certainly a message we're hearing quite clearly throughout, that there is the need for a tripartite process made up of business, labour and government. Let's look at changes, let's look at how we can address the changes and let's do that while being sensitive to the impact of those changes.

A lot of people are saying, in this new era of competition, that this is not only the best way; it's the most reasonable and responsible way. I think your response surely

bears that out today. I just thank you for coming before the committee.

**Mrs Cunningham:** Thank you very much for an excellent brief. I think you've probably impacted upon all of us with regard to your sincerity and your personal experiences. We thank you for being brave enough to come before this committee under certain circumstances.

I do have a couple of questions, but before I ask them I'd like to tell you what the response is that we've been getting to one of the questions, and that is, what is the purpose of the replacement worker clause? I mean, why would the government want it? The only response we've been able to get has been that there won't be as much difficulty on the picket lines. Any member here who wants to refute it, feel free to do so, in your own time of course. But I can tell you right now that's the only one.

Even the union people who came into my office this morning were not supporting that clause. They were in my office today because they're afraid to come before this committee. I have to tell you that we really do have a very poor atmosphere for making changes in Ontario right now. I had to slate in the one day I'm here this week to hear 15 people today and one Friday with regard to this legislation.

First of all, they're small business workers and owners—workers, I have to tell you, unionized and otherwise—and they couldn't come before this committee; there was no time for us to hear them. There are 1,200 who have been refused. Obviously I'm tremendously disappointed in the process and the rush.

So my two questions: My first one is to Mr Ross. I want you to expand upon what you talked about, being an entrepreneur and being suppressed, because this is a community that values entrepreneurship, and if it's suppression by government, that's the kind of stuff that we all want to hear about.

Then I have a question for Mr Turner. I just don't understand about this saleable asset part, and I don't understand what it means to your future employment. If you could both take those questions, I'd appreciate it.

**Mr Ross:** I'll take the first one. I specifically alluded to government suppression of business, and you'll notice it's "government." It's not a specific government; it's governments. I am also the chairman of the economic advisory board for London. In that capacity, I get invited to listen or speak to various government people. Mr Winninger, we've invited you up, and Mr Jamison from the NDP. We have tried to communicate with the NDP as best we can to try to set up mutual avenues for trying to do perhaps a more constructive job of changing the labour environment.

1600

Monday, I was invited by Tom Hockin, the minister for small business, to meet with him because of my capacity as the chairman of the London Development Advisory Board. I said exactly the same thing. I essentially told him small business is too complex in Ontario. We don't understand it. You're way ahead of us; we can't keep up with what you're doing. You have to slow it down. I said this to Elaine Ziemba. She agreed with me on employment equity. It had some impact, I would like to feel, but you're

just too far ahead of us. We understand workmen's comp comes after this. We can't do it. We don't have the resources.

If you check our revenues, Mr Hockin's main concern was the fact that they're not getting the revenues from us and they're not getting the growth of numbers in the small business sector. So there's a sincere concern there. We covered a gamut of issues with him, but I got into this issue of too much government intrusion into our sector, and he absolutely agreed, from all levels. He cited cases where a guy up north wanted to extend a dock 20 feet. He had to get nine legislative approvals, from three levels of government, to move that dock 20 feet. It's untenable. We just cannot do it.

Our recommendation to him was—and he heard this right across the spectrum—the small business sector is not looking for any handouts whatsoever. We don't want government grants. We don't want you to give us government assistance. What we would like you to do is back off on implementing any new legislation till we understand the complexities of it, cut your spending and cut your taxes and so forth, because we can't pay the bills any more. Anybody successful is looking at 52%, and that's on profit, okay? That's not cash in the bank; that's money that we don't have. So we have to borrow to pay our taxes, even if we're successful and profitable.

I've invited members of your cabinet to come with me, spend a day, go through my books. Spend a day with me. See what it's like trying to create jobs and business. I'm very successful, and I have been for 17 years, and I can't make any money right now.

Thank you for your attention.

**Mr Turner:** To clarify the statement I made here a little earlier about the saleable asset, when the labour relations board made the decision against us last year, its claim was that one of the people we had hired had to be considered an asset; he was a key asset. When he came to our business, he actually brought value. That's where that term came from. Because of that judgement a year ago, in 1991, I guess I myself am in the same boat now, or anyone, for that matter, who wants to move from one company to another. They have to be careful where they go because they have to consider that they are maybe an asset to the company they're leaving.

**The Chair:** I say thank you to Bill Ross, Garry Turner and Gerald Slenko for taking the time to be with us this afternoon and sharing their views with us. You've made an important contribution to the process and we appreciate it.

#### SARNIA AND DISTRICT LABOUR COUNCIL

**The Chair:** The next participant is the Sarnia and District Labour Council. Would the people appearing on its behalf please come forward, have a seat, tell us your names and titles and proceed with your submissions. Your written material's been distributed and will form part of the record.

**Mr Ken Glasco:** I'd like to start off by introducing myself. I'm Ken Glasco, president of Local 914 of the Energy and Chemical Workers Union in Sarnia. I'm also president of the Sarnia and District Labour Council, repre-

senting about 5,500 workers in the Sarnia-Lambton area. My tag team partner for the afternoon is Ed Nelson. He's a national representative with the Energy and Chemical Workers Union and he's stationed in Sarnia. I work with Ed quite closely.

I would like to take this opportunity to address you regarding Bill 40. With all the hype dealing with this piece of legislation, I get the feeling that every word uttered today can and will be used against me in the future, mind you, but I get to speak after the chamber of commerce, so I can slide a few things in here. I will not deal with the bill specifically, but with personal and closer-to-home reflections.

The opportunity to join a union is a right, I believe. That is my belief and, for the most part, probably yours also. The fact is that if we all believe this, then why is it such a problem; not a minor problem, but a serious infraction of our human rights?

Presently in Sarnia we have a very active organizing campaign in place in which I've been very actively involved. Prior to one of our organizing meetings at a local establishment, I was approached by one of the employees. To say this employee was scared is an understatement. This employee wanted the right to sign a card in such a manner (1) as to prevent any other employee witnessing this secret ceremony and (2) that information not be relayed to his supervisor that this particular employee had signed a card.

I'm embarrassed to admit that in 1992 anyone would be fearful of what should have been one of his basic rights. We provided for this and other employees a room with drapes closed and no other witnesses so that these employees could pay their dollar, sign their card and leave via the patio door. I asked this person why. I just couldn't fathom how they could be that scared or that fearful. They informed me that certain individuals were relaying information to the company and that their own boss had made mention that he did not take too kindly to his workers signing union cards.

Another story in Sarnia from a couple of years ago, another union, another organizing campaign: This campaign was not successful and the union organizers left town. After a few months, for whatever reasons, the leaders and pro-union employees were weeded out with regard to hours of work and benefits and were left to ponder their own future. What really happened was that everybody ended up getting cut back in their hours of work so that they basically didn't have any hours left. I suggest to you that the reason they were discarded was not because these good employees suddenly turned bad; it was because of their involvement in an organizing campaign. Yes, it is 1992, but some companies and individuals still manage to operate as if it were 1942.

The use of replacement workers is another drastically needed change. It has gone on for too long, and many strikers-pickers have been hurt. Let's face it: The only leverage we as employees have is to withdraw our services. Companies that hire replacement workers, I feel, are doing several things.



1610

1. I don't believe that they're necessarily bargaining in good faith. If they have the option of hiring other workers in, then why should they negotiate in the first place?

2. Most of us—probably all of you here—feel, "My job is my job." We as workers are very proud of our jobs and wish to do everything possible to enhance them, make them easier, enjoyable and, at the same time, more profitable. For the company to have the right to replace me, if I don't agree to its terms, is unjustifiable and disgusting. I believe I have rights also.

3. Too many picketers and too many replacement workers crossing picket lines have been hurt and even killed on picket lines, which we heard mention of a little while ago. I believe it is time for this to cease. If a company wants to try to run a highly volatile petrochemical plant, as in the Sarnia area, with management, so be it; being at the plant gate will be close enough for me. Hiring replacement workers to run these units in our place would be very dangerous. I would much rather have the management people doing it, especially if I'm going to be at the gate.

Ad libbing a little bit, Polysar—I think it was Polymer at that time, 1976—had a very short strike of about four or five days, which was a mistake; you can lay a lot of blame, but it was really a mistake. They decided at that time that they were going to run particular parts of the plant, and they did. They didn't run it at the rates or with the methods that we would have used had we been in there, but they did not hire any replacement workers. They ran it with their management-clerical staff but at a greatly reduced rate, because they just didn't have the people around to do it. But we didn't have very many altercations, either, at the picket lines. Because of the way things were going, we didn't have a lot of traffic crossing through them.

At Dow Chemical in 1988, they had a lockout, which was what it was termed. I was not personally involved in that. It is not one of the plants I represent. They ended up running their plant with their inside clerical and management-type workers, and to my knowledge, I guess that worked out not too badly. The problems were that they needed other services, and they hired in replacement workers to cross Local 672's picket lines. That is where the problem surfaced with these huge trucks trying to cross the picket lines to pick up and drop off chemicals or whatever.

Hiring outside employees to cross our picket line causes agitation, creates animosity among the employees and, I believe, has gone on long enough. A month ago in Sarnia, a person had to be charged by police for the injury of two picketers at a construction site.

I realize that I did not relate specifically to Bill 40 or even try to cover all parts of the bill. I feel that in your deliberations in these hearings you will probably hear that over and over again.

I want to close by relating to a couple of things, a few I have written down and an article I picked up from the Toronto Star on the weekend. I'm quoting the Star: "A southeastern Ontario company was saved by an offshore financial group and is now under new management. This group was very concerned"—this financial group—"be-

cause the employees were represented by a union. Upon completion of the deal, a principal"—in this group—"stated, 'The union has definitely been a big reason why we've been able to re-establish.'"

I'd also like to refer to quotes that were made in our newspapers a week or two ago in the Sarnia area. I've been out of town a bit myself on union business, and I haven't been able to pick up on all the news, mind you. But Shell Canada Chemical announced that it is very interested in building another plant in the Sarnia area. They related a couple of reasons: (1) the provincial budget, and (2) the federal budget.

I must also add that Shell, back in the late 1970s, decided to build in the Sarnia area. The first thing Shell did was come to the union, the ECWU, and tell us that it wanted our involvement in building this plant from day one, and that is really the way it started. It was a separate collective agreement; it applied to a certain number of employees, and it still applies to those groups of employees. Together the employees who were unionized and the company built, and they still manage and run that place together.

I don't have to bring to your attention the economy and the downsizing and the way everything has been going. The company I work at is called Polysar, and it was recently purchased by Bayer AG of West Germany. We all know that when that happens, many things happen, and "downsizing" and "restructuring" are very good words that everybody uses.

Again, the first thing the management group at Polysar did was come to us, the union, and say, "Here is what we want to do, and here is what we want to do together." Between all of us involved—and that included 1,200 bargaining unit people and 500 or 600 salaried people—we feel we've been able to pull that place back together, and we've been able to operate it through attrition and retirements and whatever. It was just recently announced, I think two or three weeks ago, that there will be no layoffs at Polysar. A major portion of that has got to do with our relationship and the way we've been able to work it out at Polysar.

It's very hard to comprehend statements like the one I quoted from the Toronto Star; why all the concern about making what I feel is an archaic law in tune with the 1990s. I tried—unsuccessfully, I might add, and I tried with my own company, Polysar—to get a copresenter to address you as a bipartite presentation. I don't believe they wouldn't do it because of total disagreement on the issues; I just really don't believe it was the "in" thing to do. Everybody's drawing up their sides, and it just wasn't the way things should go.

Thank you for your attention, and Ed and I will try to answer any questions you might have.

**The Chair:** Thank you for a submission that was pithy and left sufficient time for discussion.

**Mr Glasco:** That's a compliment, coming from you.

**Mr Offer:** Thank you for the submission. I think it's a very important presentation. I have a question that centres on the organizing aspect in any particular workplace. I

must tell you, I am less concerned with how the organizing campaign starts, whether it's from an employee or outside, than what happens after it starts. That's where my major concern is.

I think you referred at one point to legislation for the 1990s, and I want to talk about that.

In the bill there is a provision that says that if, during an organizing campaign, an employer contravenes the act so that the true wishes of the employees can't be ascertained, then the board can automatically certify. I think that's been put in to try to address some of the concerns in the area of intimidation and coercion. I think we all agree that the right of the individual, the man and woman in the workplace, to choose whether to join or not to join a union should be free from coercion and intimidation. That's a right. I don't care where anybody stands on the bill: This is not a bill about unionization; this is an issue as to the right of an individual to choose.

But it seems there's one part missing, and I'd like to get your thought on that. If we're going to build a balance into the bill, then as you might expect, we have heard some concerns that not only is the employer sometimes guilty of some aspect of coercion or intimidation, but sometimes—and we hear this anecdotally at best—the organizing drive is guilty.

Would you not agree that in order to really embrace the principle of the right of an individual to choose, free from intimidation and coercion, that clause should be expanded to not only include an employer who may be found in contravention of the act but also the organizers on the union side contravening the act, that if that took place, the drive would automatically be dismissed and could not be brought back for 10 months to a year? I'd like to get your thoughts as to whether that is an amendment you would support.

1620

**Mr Glassco:** I guess I would have difficulty trying to ascertain what a union organizer or a union could do that would be unlawful or contrary to the Labour Relations Act. In dealing with the people I've been dealing with, we tell them the way it is. You explain all the options. Here's the way a union runs. You make these decisions and it's this and it's that and whatever, and then they make their own decision. So I guess I don't understand what I could do, as an individual or as a union, to break the law so that I should be punished or whatever. I don't know what we could do or what I could do for that matter.

**Mr Offer:** What if that employee felt intimidated or coerced into making—

**Mr Glassco:** Signing a card.

**Mr Offer:** I'm not saying that's a fact. I'm just saying what if an employee felt for whatever reason intimidated or coerced, not just by the employer but by the organizer, shouldn't there be a penalty not only on the employer who contravenes but also on the organizer?

**Mr Ed Nelson:** Tell us what we do then. Give us an example of what we do—and I'm an organizer—to contravene the Labour Relations Act. I know what companies do.

**Mr Offer:** Then I'll ask you, as a principle, if we agree that there should be a right of an individual make a choice, as I do, whether or not to join a union free from coercion or intimidation, if we agree with that as a principle, then don't you also agree that the participants who may be involved in the organizing drive, either from the employer's side or the union side, should suffer a penalty if they have done anything in the employee's mind, as decided by the board, that might affect that?

**Mr Nelson:** Maybe you should come on the next organizing campaign I have and listen to what the employees say about the coercion that they suffer at the hands of the company, and you can watch me, as an organizer, organizing and obeying the laws. You can watch that, and I'm sure every union in the province would invite you to come along on these campaigns and watch what we do and observe.

Then go into the companies and observe what they do to the employees in a subtle manner, "If you join the union"—whisper, whisper—"we may close the plant down." That's what happens. That's the reality of the situation in Ontario, and maybe you should do that if you want to find out what really goes on out there, because you don't know.

**Mrs Witmer:** Thank you for your presentation, Mr Glassco. I think you were genuinely sincere in the comments that you made. However, you mention here all the hype. I think the reason for the hype and the concern is that there certainly is the perception and the reality as well that we're dealing with an agenda that really was created by the union leadership and the agenda we're dealing with does not include the viewpoints of individuals or the business community.

I think it has created some uncertainty in this province, and as a result, we have a polarization, and at a time when we need to be bringing business and labour together, unfortunately the process the government has used, instead of having true consultation, we've all been forced to deal with one agenda.

But my question to you is, we do not dispute—I don't think anyone disputes—the right of an individual to join a union. That is a right that all individuals are entitled to, and obviously they also should have the right to leave a union, if that's their choice.

You talk here about the very clandestine, covert manner in which unionizing is done, and you've given an excellent example of a room, and what have you, curtains drawn. If that's indeed happening—and I know it is, because we know that during a unionizing drive there is harassment, there is intimidation, not only from the union organizers but also from the company and the employer; we know what happens on both sides, we've heard examples and we know that's true—if that's the case, why could you not support a secret ballot vote that would give all employees in that workplace the opportunity to hear what is involved in becoming a union member, what are the dues, what are the implications of a strike, give the employer an opportunity to make his or her presentation as well, and then ask the Ontario Labour Relations Board to conduct a secret



ballot vote where the entire workplace has that freedom to choose whether or not it wants to join a union? Why would you not support that?

**Mr Glassco:** I feel myself that they have that right now. Okay? We have a very active campaign on in the Sarnia area, and we talk to everybody we can. No, we're not going to throw it up to a meeting and have a secret ballot and say, "Let's do this, let's do that." They have the right now to sit down and decide. If they sign a union card, then that's the way it goes. If we get over the 55%, then I would imagine it's going to fly.

You have that group out there in which some of them don't even really care. They're really not that interested one way or the other, and they won't show up for a vote and they won't show up to do anything else sometimes that's associated with the plant. They're just basically there to do their work.

We believe that if we get out there and work with some of those people and talk to some of them and we get the required number, 55% plus, whatever, then that's really the way it is. If they don't like that, then somewhere down the road, a year or two years, whatever it is, they can get out of it.

I'm associated with many union people in the Sarnia area and if they are not happy with a union, whatever a union is, then they get up and pack their bags and leave. Or they say, "I don't like this union; I'm going to go over to that union," which creates some problems sometimes, mind you, but they can get out and go elsewhere.

They've really had that right when they sign the card. To me, that is their secret ballot, whatever. The only reason we had to have curtains drawn and make it clandestine was that this one particular individual was scared to death that he was going to be history if the boss ever found out. This individual stuck around for the meetings, listened to everything everybody had to say, listened to the debate, listened to the criticism that people would throw up, "Well, if you got a union, this could happen," and all the rest of it. He had really already signed his card but was just scared to death that the boss was going to find out, or even that his co-workers were going to find out. He just couldn't handle it.

**Mrs Witmer:** I guess the problem I'm having is that I hear from unions about the need to empower employees, the need to involve employees in the workplace, increase productivity, determine the future directions, and yet you are unwilling to share information with employees to fully inform them as to the obligations of union or non-union membership. You talk about empowering. Why do you not want to empower people to be fully informed about joining a union?

**Mr Glassco:** You should come along with Mr Offer down at the end there when he comes to our next organizing meeting, because we don't hide anything. Ed and I work together. We lay out exactly the way things are. Okay? I've never found him to lie or trick or try to coerce.

**Mrs Witmer:** So why are you afraid of a secret ballot vote?

**Mr Glassco:** We're not afraid of a secret ballot. When you have over 55% of the people saying yes, they've already cast their ballot. It's down and it's in.

**The Chair:** We've got to move on. That's going to be one heck of an organizing campaign.

Maybe, Mr Chairman, we can invite the panel here to come to our next meeting, and they can stand there and listen to what the workers are fearful of. It's an open invitation: Holiday Inn, next Tuesday.

**The Chair:** Go ahead, Mr Huget.

**Mr Offer:** We would be in contravention of the act. It would be in contravention of Bill 40.

**Mr Nelson:** No, it wouldn't.

**Mr Huget:** Thank you for your presentation. I think it was a very good presentation.

Interjections.

**Mr Huget:** Mr Chairman, can I continue somehow here?

**The Chair:** Go ahead. I'm listening carefully to what you're saying. So are these people.

**Mr Huget:** I was more concerned about Hansard being unable to record all the comments at once.

**The Chair:** They can hear you.

**Mr Huget:** First of all, I want to say that when you refer to the experience of having to draw curtains and people having to do very much in secrecy—and I think Mrs Witmer referred to the organizing process as being covert and clandestine and having to sign cards in darkened rooms so no one can see you—well, when the day ever comes in this province or in this country that I can sign a union card on the steps of city hall at 5 o'clock during rush hour, I'll be a very happy man.

Because organizing is referred to in that light, I want to know the reasons why. What are the reasons, first of all, for some of the fear? What are the reasons for people having to make a decision to go into a darkened room, sign a card and exercise a democratic right? I'd like some views from you on the reasons for that employee fear.

1630

**Mr Nelson:** First of all, they're not scared of the union, because they're there, and I don't think they're scared of the government, because it's not there, but they are scared of the company, because the company has made it quite clear over the years—in most of the companies we try and organize—that it doesn't want a union. They send letters to the employees that they don't need a union because "We look after you."

One of the strange things in this province is we have a very good relationship with a lot of companies—the Energy and Chemical Workers Union is one of the most forward-thinking unions in this country when it comes to empowering workers, and we've proved that time and time again—but these same companies that we have a good relationship with, if you go 20 miles down the road and you try and organize the other part of that company, all hell breaks loose.

On one hand, they love us to death when we're in the plant and they want us to be part and parcel of everything, but try and organize another plant they have that's not organized and they pull out all the stops: They hire the lawyers in Toronto to write these very fancy letters, subtly implying to the workers, "You don't need a union and this is how you do it or you don't do it."

They're scared of the company. Companies don't want unions in this province. That's the fact. They don't want them because they see it as a loss of power from every level in management. It's power lost to them when the union comes in and they don't want to lose that power, yet in some instances where we have organized, we've been able to do certain things within that company that have made it more productive. Then they say, "We were against you when you came in, but you've shown us that we can work together, and you do work together, and we approve it."

**Mr Huget:** Just to follow up a little more on the organizing theme, what has been your experience about how organizing campaigns start? I think there are people on this committee and there are people out in the business community who would suggest to you that somewhere in some hidden location in Canada a large union looks at the map of Canada and says: "There's a town, Samia. Let's go out and organize all the people in Samia." My experience has been that it's employees upset about working conditions that contact the union to help it organize.

**The Chair:** Do you want to comment on that, please?

**Mr Nelson:** Exactly. That's what happens. In my experience, and I've been involved in a lot of organizing campaigns, never once have we approached these employees. The phone call comes in from the employees, through phoning the Ontario Federation of Labour, and sometimes they phone the Canadian Congress of Labour. If it's in our jurisdiction, we get a call to contact the employees. That's how organizing starts in this province, from the employees, not the employer.

**The Chair:** Thank you both, Ken Glassco and Ed Nelson, for appearing here today on behalf of the Samia and District Labour Council. We appreciate your interest and your involvement and trust you'll keep in touch. Take care. Have a safe trip back to Samia.

The next participant is the United Association of Pipefitters, Local 663, if those people would please come forward and have a seat in front of a microphone.

Any matters that people wanted to raise? I understand that ministry staff wanted to respond to some of the issues that were raised by members over the last day or two. This would be an appropriate time for them to do that, subject to any objections by members of the committee.

**Mr Offer:** No objection from me.

**Mr Jerry Kovacs:** I think they were your questions, Mr Offer, and it might be helpful for me if you could restate them. I have notes from ministry staff who were here before.

**The Chair:** Perhaps, Mr Kovacs, you could just address the issues that you have prepared and then if there are supplementary questions, I'm sure they'll be asked.

**Mr Kovacs:** I understand you were asking questions about how the proposed provisions dealing with expedited hearings during organizing campaigns would operate and, in particular, I think you had concerns about the mandatory consecutive sitting days that the section provides for. Perhaps you can tell me exactly what your concerns were so that I can better address them.

**Mr Offer:** If I remember correctly, the request that I had was based on a concern that the lack of discretion in the expedited hearings might negatively impact on the worker who has requested the hearings. In other words, a worker wants an expedited hearing and makes a request; once that request is made a certain time frame, without any discretion, kicks in.

My concern was, what happens if after the request there is a day or days that the worker who has made the request can't attend? Does that jeopardize the worker in the hearing?

**Mr Kovacs:** I think you should refer to existing provisions in the Labour Relations Act which have similar mandatory wording in describing the board's requirement to conduct and complete hearings. In particular, if you look at the existing first-contract arbitration provisions, in subsection 41(2), which is the application to the board for a direction for first-contract arbitration, the board is directed to make its decision within 30 days of receiving the application, so there is a comparable example of a mandatory time limit.

The board has then, in circumstances such as you have described, considered the particular circumstances of the employee's, the applicant's or the respondent's problems, and has used its general powers under—and I'd refer you to another particular section—existing subsection 104(13). That provides the board a general power to determine its own rules of practice and procedure.

There's a parallel existing problem and the board has dealt with these circumstances. If you look at how the board has interpreted that parallel provision, I think you'll be able to generalize on how the board will interpret the new provisions.

**Mr Offer:** Okay. I don't know, Mr Chair, if the other deputation is here yet, or if there are other matters which ministry staff is ready to respond to.

**Mr Kovacs:** There was one other question, yes.

**Mr Offer:** I guess I have a concern in that these provisions in Bill 40 dealing with this mandatory time frame are different than the first-contract legislation within the bill. There is more of a flexibility. In fact, we've heard that's indeed a concern. I thank you very much for that response.

I must say that my concern was on the basis of the worker who requests an expedited hearing—bang, bang, bang, it has to be heard in X amount of days; there cannot be anything different—and then within the time period there's some family problem or there are a myriad of difficulties and the worker just can't get to the hearing. I'm not yet comfortable, but I thank you for the response.

**The Chair:** Is there anybody else who wanted to address that particular issue and that particular explanation by Mr Kovacs?



**Mr Kovacs:** There was one further question that ministry staff advised me of, and I believe, again, Mr Offer, it was yours. It was with respect to what would become section 7 of the act, dealing with consolidation. It's at section 8 of the bill. Subsection 8(1) requires that consolidation applications can concern only the same trade union. I think it was the definition of "trade union" that was at issue.

The labour board, in determining applications for certification, currently will define a particular local of a national or international organization as a trade union for the purposes of the act. So it will depend on the circumstances of the proposed consolidation that arises under the proposed new section 7. It's possible that different locals may constitute different trade unions. However, if a number of locals involved in a potential consolidation case have been certified or have bargained through the name of their parent body, then perhaps they would constitute a "same trade union" within the context of subsection 7(1).

**The Chair:** Did anybody want to question further or comment on that? Thank you. Perhaps you could stay there for just a moment, please.

**Mr Hope:** Mine is to legislative research.

**Ms Sharon Murdock (Sudbury):** Mr Turner, from Form and Build Management Inc, mentioned his labour board case, and I was wondering if the ministry is capable of getting a copy of that judgement.

**Mr Kovacs:** Yes, I can. I'll do so and provide it to you.

**The Chair:** Is that acceptable?

**Ms Murdock:** Yes.

**Mr Hope:** What I would like to try to do is get some information from legislative research. It revolves around the strike issue and the replacement worker issue, and I'm just trying to put a picture into place here.

I'm wondering if legislative research could tell me—and I know you couldn't today—how many collective agreements are in place in the province of Ontario, how many strikes occurred in the last 12 months and in the last 24 months and the length of the strikes in the 12 months.

I'm not sure if you keep documents back longer than 12 months, but just if you've got it and it's at your fingertips. Also, what I would like to know is, out of the lengths of strikes in the 12 months—I don't know if you've got that—how many had reported violence in them, and out of those violent incidents, how many were through the use of replacement workers or transfer of work or moving of equipment.

I think that'll keep you busy for a while. Sorry for the inconvenience, but it's important that we have this to try to put into perspective what's being said to us.

**Mrs Cunningham:** Just on that point, I think I asked the same question last week as we wanted to expand on some of the information that was put before the committee at the time. Perhaps we could look at it over the dinner hour and see what's available, but the questions have been asked.

**The Chair:** Yes.

**Mrs Witmer:** I thought maybe in the time it takes to hold the hearings, the government might consider doing a full economic impact study.

**The Chair:** You're asking Ms Anderson to do that?

**Mrs Witmer:** Since it has not yet been done.

**The Chair:** That's a request, I trust.

**Mrs Witmer:** That's a request.

**The Chair:** It's noted. I'm sure any number of people will take it back to whomever they're responsible and accountable and answerable to.

**Mr Hope:** If I may, because we're talking about a recession, and I don't know if your documentation or your microfilm goes back, but if she's talking about an impact study, why don't we go back to the 1930s, when the Depression was on?

**The Chair:** Thank you, Mr Hope. No other matters. We are recessed until 6:30, at which time we will be back here again. People of course are welcome to attend, and I look forward to seeing people here.

The committee recessed at 1645.

## EVENING SITTING

The committee resumed at 1830.

UNITED STEELWORKERS OF AMERICA,  
NIAGARA PENINSULA AREA COUNCIL

**The Chair:** It's 6:30. We're ready to resume for this evening. The first participant this evening is the United Steelworkers of America, Niagara area. Please come forward and take a seat in front of a microphone. Tell us your name and your title. We have your written submission, which will form an exhibit to the proceedings. Leave the last half of the half-hour for exchanges.

**Mr David McIntosh:** Mr Chairman and members of the committee, my name is David McIntosh and I'm here today on behalf of the Niagara Peninsula Steelworkers area council to express some thoughts on Bill 40.

The United Steelworkers are pleased that the government has proceeded with labour law reform, although we feel that these modest reforms are but a first step and that in order to achieve a truly level playing field in labour relations there is much more work to be done.

Ontario's current labour laws were written when the workforce was mainly men working in large industrial places. Today, due mainly to the fiscal follies of the federal government, the workforce now consists of a great number of part-time workers, the majority of whom are women and immigrants, and few are covered by the present legislation.

We don't believe that this bill will result in massive job losses as predicted by some business groups. Any group that requires the services of a public relations firm such as Hill and Knowlton must expect to have its pronouncements met with a degree of scepticism.

Unions are a force for social good, and many of the social policies we all enjoy today such as public medicare and pensions exist largely because the labour movement campaigned hard and long to achieve them.

There is nothing in Bill 40 that proposes that union membership be mandatory. Rather, it aims to give people the choice to organize or not, free of the intimidation and fear that exists in many of today's workplaces.

If people are treated with dignity and respect, are paid a decent wage, work in safe working conditions and can trust their employer, then the chances are they will never feel the need to form a union.

I should like to touch on a couple of the areas of Bill 40.

The right to organize has been extended to a number of groups currently excluded. United Steelworkers can only view this as a positive step.

While the scope of the act will be amended to include domestics, this is essentially meaningless unless mechanisms are put in place to ensure their ability to bargain. Most domestics are employed singly, in separate workplaces by separate employers, with little in the way of job security. Some form of organization needs to be developed whereby both domestics and their employers can be represented in order to negotiate their particular interests.

We are of the view that security guards should be able to join and be certified in the union of their choice. Ontario is the only province which holds that security guards cannot freely choose which union will represent them. In all other jurisdictions there have been no issues concerning conflict of interest, and the proposed amendments address the issue of conflicting interests between a security guard's duty to his or her employer and loyalty to other employees.

Employees wishing to form a union must be protected from employer reprisal by the total prohibition of discipline and discharge, unless the employer obtains prior leave from the Ontario Labour Relations Board. This is the only way to ensure that employees are making a free choice to organize based on their knowledge and the information supplied by either side. This step would also reduce the fear and threats that all too many employers lay on pro-union employees.

The elimination of a membership fee is a positive step. While this may make it marginally easier for unions to convince workers to become members, it will certainly remove one of the most time-consuming objections employers use to delay a certification application. Surely a signed card is sufficient proof of support.

While we support the lowering to 40% for the amount required for entitlement to a certification vote, we cannot support the retention of 55% for automatic certification. We feel, in accordance with all elections or ballots held within the Steelworkers, a simple majority should suffice for automatic certification. A signed card is as sure a proof of support as a secret ballot. Indeed, if parliamentary elections were held under the rules that are being imposed on workers during organizing drives, there would be far fewer politicians holding office today.

Again, Ontario is the only province that does not restrict the use of anti-union petitions. The overwhelming majority of these petitions are found to be either involuntary or tainted by employer involvement and are thus disregarded by the board.

However, the time and expense required to oppose a petition often results in delay of the certification process and frequently damages the newly created and often fragile bargaining relationships.

If workers wish to decertify, they can do so currently under the act by applying to the board in the months just prior to the termination of their collective agreement. Decertification, by the way, requires only a simple majority vote.

We therefore urge the government to take the necessary steps and completely eliminate petitions.

In conclusion, we believe that the assertions of some segments of the business community regarding Bill 40 and its adverse effect on Ontario's economy are pure guesswork at best. Investors put their money where it will get the best return, and it stands to reason that a business that is more efficient and more productive will also tend to be more profitable.



A recent study by researchers at Carnegie-Mellon University found that unionized workplaces are as much as 31% more productive than non-union, and even that unionized branches of large companies were more productive than non-union branches of the same company.

Further, the Economic Policy Institute in the US also sponsored one of the most thorough and comprehensive studies of unions and international competitiveness. They concluded that there is no connection between unionization and trade deficits. The study also demonstrated that unionized workplaces have led the way with regard to flexibility and productivity, enhancing innovations. Increased productivity is more likely to take place where workers share the benefits, there are long-term employment guarantees and workers are protected from unjust dismissal. These conditions are more likely to occur in a unionized workplace.

For these reasons, the Steelworkers urge this government to pass this legislation and help more of Ontario's workers enjoy the benefits and rights of collective bargaining.

I have attached to the back of the presentation an article from the Toronto Star regarding the unionized employees being a bit more productive.

**The Chair:** Thank you, sir, and congratulations on a submission that is concise and permits adequate time for discussion. Ms Witmer, Ms Cunningham, seven minutes, please.

**Mrs Witmer:** Thank you very much, Mr McIntosh. You make reference on page 3 to the fact that "This is the only way to ensure that employees are making a free choice to organize based on their knowledge and the information supplied by either side." What exactly do you mean by that statement? I'm not quite sure.

**Mr McIntosh:** During an organizing campaign—I don't know if you've ever been involved in one—

**Mrs Witmer:** I've certainly heard from individuals who have been involved.

**Mr McIntosh:** Okay. I work as a volunteer organizer for the Steelworkers. During a campaign, the first thing that generally happens as soon as the employer becomes aware of the drive is that he has a little gathering of the employees, just to have an informal chat, where he lays out that he doesn't like unions. Oftentimes we have, I guess, indirect threats about how a union would make the company less competitive, possibly forcing it to lay people off or even shut down—we do have examples of that; one was mentioned earlier today regarding an oil refinery—generally a very anti-union stance. He is prohibited by law from having what is called a captive audience where he pays them to be there, but generally that law is not enforced very well and we have found many, many cases where at coffee break all of a sudden the employees get together and they're fed information from the employer.

When we get involved—and this is a general thing we're encouraged to do with the Steelworkers—in organizing campaigns, we have to provide that individual with all the information that is available to us. We don't hold anything back. We give it all to them. The people are usually at meetings, either in a hall or—sometimes you'll

have 10 people, sometimes you'll have more. Odd times there's just one or two people, maybe even alone, depending on the individual's preference. We pass along that information and we answer the questions, and there are usually many questions.

We have had cases, and a couple come to mind, where employees were fired because they made a pro-union statement in the workplace. In one case, they fired the wrong guy. He wasn't a union supporter until after we got his job back. People have been disciplined, have been given the dirty jobs, the jobs that normally no one wants to do in a workplace. I'm sure you understand there are many areas where it's a little dirtier and not quite as nice to work.

**Mrs Witmer:** But how is this law going to help people make a free choice?

**Mr McIntosh:** You're going to do away with the fear of being fired. There's going to be more protection under this act. We would actually like to see the total prohibition of discipline and discharge while the drive is going on. That's not provided for in the act, and we feel it's one of the failings of the proposed amendments. I don't think they go far enough in that direction.

1840

**Mrs Witmer:** You talk about allowing people to make a free choice to organize, and I certainly don't disagree with you. In fact, I have to tell you, some of the concern I have about this legislation is that I feel it does infringe on individual rights and freedoms. I feel there are some freedoms that are taken away from individuals.

I know many people have indicated they would feel much more comfortable with this legislation if individuals truly were given a choice. That choice would be based on a union presenting all the information, the employer presenting the information and then having all the employees cast a secret ballot. If we talk about democracy and freedom of choice, the only way you can have that is a ballot. Why would you not support that happening?

**Mr McIntosh:** In my experience with ballots—we do go through a large number of secret ballots on a certification—usually the balloting place or the voting place is a lunchroom in the workplace or some other appropriate office or room. There's generally a hall leading up to it, and it's been my experience that we have management personnel standing in the hall on either side of the door encouraging the people as they go in to vote against the union in favour of the company's position.

**Mrs Witmer:** But obviously if you're having a secret ballot, the person has the choice anyway to do whatever he wants.

**Mr McIntosh:** He certainly has, but there's a heck of a lot of intimidation sitting out there when you walk past the boss and you know you're going to be voting against what he wants. I've even had a foreman come in to the polling clerk and tell him, "I've got two people out here who voted the wrong way and they now want to change their ballot."

There's really nothing secret about a ballot on a certification vote. There's far too much intimidation. There's a genuine fear out there which, if you've never been in the

position of being in a certification vote, possibly you wouldn't really understand. When you have an employer who's got the money and the power in this hand and he's got your job in this hand, you tell him what he wants to hear.

**Mrs Witmer:** However, we've also heard about people who have been approached by unions and who have felt very intimidated, have had their personal property destroyed and harassing phone calls made as well.

**Mr McIntosh:** During an organizing drive?

**Mrs Witmer:** Yes. I can give you an example in Cambridge of that happening. In order to make sure there's no harassment, there's no coercion, I think what we need, and what I know people would feel comfortable with, is to have a secret ballot vote supervised by the Ontario Labour Relations Board, if you will.

**Mr McIntosh:** They usually are supervised by the Ministry of Labour.

**Mrs Witmer:** Let's make sure that people really do have freedom of choice in a secret ballot vote. That's the way we're elected, and obviously there's some merit there. John Crispo suggested to us that unions are afraid because they're afraid they would lose. I don't know what your response would be to that.

**Mr McIntosh:** I'm afraid I don't worry too much about that. Usually, when we finish up a drive, we feel we've done a sufficient job. It's up to the individual. A secret ballot vote cannot take place while you have the intimidation and fear in the workplace that we have today, and that fear is losing your job, particularly in today's work environment. Unless you've been involved in that, I realize it's very hard to understand the amount of fear out there.

**Mrs Cunningham:** Thank you, Mr McIntosh. I looked with interest at the Carnegie-Mellon University study. If that's correct, I hope you're more successful, because if those results are correct—is it recent?

**Mr McIntosh:** I believe it was 1989 or 1990.

**Mrs Cunningham:** Perhaps you could give us the reference for that if you have it, because I'm not aware of it. I'm sure whoever put the brief together would know where we can find that.

**Mr McIntosh:** Actually, I took this one out because it's very readily available. It was in the Toronto Star.

**Mrs Cunningham:** Okay. I was going to ask you if you were aware of the Ernst and Young study. You say there are fears of people in the workplace losing their jobs if in fact they want to unionize, because of the managers and owners of a company. I'm wondering what your impression would be with regard to workers being concerned about losing their jobs or companies not investing in Ontario. That's an Ernst and Young study that estimated some 295,000 jobs and \$8.8 billion in investment would be lost if in fact this law went through. Of course, in my position I have to look at every side of this study.

**Mr McIntosh:** I don't know who commissioned that study and I don't know whom they asked the questions of. I understand that very early on in these proceedings there

was a study that came out and it was 465,000 jobs, so we've had an improvement so far.

**Mrs Cunningham:** So I'm supposed to believe this stuff.

**Mr Brad Ward (Brantford):** Mr McIntosh, before I ask a couple of questions of you I think I'd like to request of legislative research that we obtain copies of the Carnegie-Mellon University study that showed that unionized workplaces are more productive by up to 31%; and not to correct Ms Witmer, but the testimony we heard from a participant in these hearings of violence took place during a first-contract strike, in which employees were crossing the picket line. It wasn't during an organizing drive of card signing; it was an actual first-contract strike at the Cambridge Reporter, from my recollection. I may be wrong in that.

**Mr McIntosh:** I would like to thank you for your presentation. I think it has clear insight for this committee and develops our understanding of the benefits of Bill 40, as well as some concerns that in fact Bill 40 doesn't go far enough.

We all recognize that the workplace and the workforce changed dramatically since the 1970s, which is in essence why Bill 40 was presented, because the existing act clearly does not meet the needs of the people of Ontario in today's environment.

You have had some experience in organizing drives on behalf of your union, the Steelworkers, I believe. We've heard some statements today by a group of presenters that more or less inferred that organizing drives have occurred, in their experience, by trade union representatives simply showing up at the door of a specific company and suddenly conducting an organizing drive.

I would like to know how an organizing drive develops as it pertains to your experience and with the Steelworkers, and some obstacles—you mentioned them briefly in your presentation—you have experienced under the existing act that do not allow employees to present their true wishes if they decide to have a trade union represent them. Could you expand on that?

**Mr McIntosh:** Sure.

**Mr Ward:** The obstacles, as well as how organizing drives develop.

**Mr McIntosh:** First off, I'd like to state that if you people could pass a law that would allow me to knock on a company's door and tell them I'm there to organize the place and would they let me in and they do, I'm for ever in your debt.

**Mr Hope:** You'd be charged with trespassing.

**Mr McIntosh:** Right. An organizing drive—  
Interjections.

**Mrs Witmer:** Not any more in Bill 40; you can do anything.

**Mr McIntosh:** No, you can't, unfortunately.

An organizing drive usually starts out when we're approached by dissatisfied employees of a certain company. We don't know who's unhappy with their workplace. If you live in a large city, there's no way in the world you're



ever going to find out—even in a small town. You might hear gossip, but that's it. Normally these people approach the union.

In one recent case—it was on sexual harassment—the woman felt she'd been sexually harassed by her boss. She came to the union to find out how to proceed with it, and from that an organizing drive developed.

In other cases, it's people who are dissatisfied with their working conditions, or they want more money. Health and safety is a big issue these days. The biggest issue of all, funnily enough, is being treated with dignity. Wages come in about number four on the list. If an employer treats his people with dignity, with a bit of respect, he's going to have no real problems with them. That is number one on the list.

As far as problems that develop during a drive, we do have the classics, where people are fired or where people are laid off out of position. If there's no union, there's generally no seniority list. Even if there was some sort of informal seniority process before, it's generally ignored. You find that pro-union people tend to go to the door a heck of a lot faster than the ones who are pro-company, so to speak.

In one recent one we looked at, the company actually went out and hired 40 new people prior to the certification vote. Two days later, they laid them all off after the vote. As far as the level playing field goes, it's about as level as a vertical wall.

1850

**Ms Murdock:** This is sort of a preamble to the question I'm going to ask you. I get the feeling through much of this in the past two and a half weeks that we, as New Democrats, who have a strong belief in the rights of working people to have a choice in terms of organizing or not, actually are employers in that our staffs in both our constituency offices and our legislative offices are unionized under two different unions, one the Office and Professional Employees International Union and the other the Ontario Public Service Employees Union.

As a matter of fact, my colleagues elected me as the caucus personnel chair, so I am the chief negotiator for the management side. I went through that process last year and will have to go through it again next year, I imagine. It's sort of interesting, because I come from this in terms of having been a union member and now from the management perspective, so I get it from both ends. In fact, after Bill 40 we could very well end up organizing the Liberal and Conservative staff.

**Mrs Cunningham:** My staff's organized. What about yours?

**Ms Murdock:** Because of that, I think we have a good working relationship with our staffs and we work through the collective agreement. Can you give us a couple of examples of instances where your local has worked with management for the good of the company, and the good of the workers of course?

**Mr McIntosh:** In my own local? I work in an industrial service company. We go out and we make repairs in larger plants. Lately, things are a little bit tight out there, as

they are everywhere else, so we've been going out further afield and getting into different areas: hydro, cogeneration and steam plants, places where we've never actually gone before.

Our contract language is actually a little specific in regard to travelling. We do a lot of travelling around the province, Canada, the United States and into South America in our jobs. Normally, within the Niagara Peninsula we have a specific travel area where we report to a job site. In other words, instead of the people going to the plant, they drive direct to where the job is being done. If they're outside that area, then of course they have to be paid for time and they're supplied with a vehicle to get there, according to our language.

We come into many areas now where, because of the restrictions on various budgets and various plants, there's been that difference between the travelling time allowed and the free travel time, which has meant the difference between getting a job or not getting a job. We have been working with our management people in that area.

We're also looking at what I guess you call multicrafting in a lot of areas. The generic name is multicrafting, where instead of welders, machinists etc—

**Ms Murdock:** Is that similar to multispecializing?

**Mr McIntosh:** Yes.

**Mr Michael A. Brown (Algoma-Manitoulin):** Thank you, Mr McIntosh, for coming. I should preface my remarks by saying that I represent a northern riding where Steelworkers have a large membership. As a matter of fact, it's unfortunately in the last couple of years that we've lost approximately 3,000 steelworker jobs in my riding because of economic conditions. I've had a lot to do with steelworkers over the years trying to figure out what we do now.

Having said that, I come back to saying that we MPPs are generalists. We can't be experts in everything that comes before us. While we try to learn at hearings everything there is to know about everything, often we hear very contradictory messages out there. As a matter of fact, on this bill we're hearing exact opposites, which wouldn't surprise you. I'm wondering how we, as MPPs, generalists that we are, assess some of these facts.

I look at your statement. You want a truly level playing field. From my point of view, I want to understand what a truly level playing field is and what indications in an economy we could use to determine what a truly level playing field is. For example, could we look at the average wage of workers within a jurisdiction? Would that be a way to look at the level playing field? Could we look at the number of days lost through strikes? Could you tell me how I could go to look at solid, hard facts to tell me whether labour relations in a particular jurisdiction are working well?

**Mr McIntosh:** You're asking me to comment on an economic matter now?

**Mr Brown:** No. What I'm asking you to do is to tell me, as a generalist who's hearing exactly the opposite point of view from two groups here, how I would know whether our Labour Relations Act needs reform, because there are certain indications in the general economy that

are saying that to me. For example, would the average wage of our people, the average benefits our people get or the number of labour disputes that end in strikes be an indication? could you give me a handle on how, objectively, on hard facts, I would decide that?

**Mr McIntosh:** In the field of labour relations?

**Mr Brown:** Yes.

**Mr McIntosh:** It's my belief we probably will never have a level playing field.

**Mr Brown:** But how can I tell we do?

**Mr McIntosh:** No matter what happens, the man who signs the paycheque is always going to have that little bit more clout than the guy who does the job. Now, I can't comment on economics; I'm not an economist. How this bill is going to affect the economy is as much my guess as it is yours, and God knows we've had enough guesses flying around the newspapers these past few months. Quite frankly, I personally look at unionism as being a very positive force in our society.

**Mr Brown:** We'll see these reforms, there's no question about that. The government has decided these reforms are retroactive. These reforms are going to take place within a fixed period of time in terms of the legislative time frame, because they've used closure. They've indicated exactly what can happen in the Legislature. So it's going to happen. There's nothing that's going to change that.

What I want to know is, when I look at labour relations three years from now, will I be able to look back and say, "Yes, these contributed to a more level playing," or "No, maybe we should be doing something different," or "We need further reforms"? How do I know that?

**Mr McIntosh:** I guess one of the best indicators you could have is to look through the reports of the Ontario Labour Relations Board as regards certification; how the unions and management are getting together, how they handle their problems.

If we do end up with fewer strikes, which I certainly hope we do, that's certainly going to be an indicator; the wage rate going up. Generally, a union shop earns more both in wages and benefits and has better and safer conditions than a non-union shop. I think that's a fairly safe statement to say. As someone who comes from a mining community, you'll probably appreciate that more than most. Other than that, I can't really comment on that. It would only be pure guesswork on my part. But as regards putting this bill into an economic format, I don't know.

**Mr Brown:** My job as an MPP—and I presume everybody's job as an MPP—is to look out for my constituents and hope to make everybody's life a little bit better in the time we serve here. I'm trying to look at how we measure that. There's got to be a way.

Unfortunately, because we can't meet each one of our constituents and find out if his or her life is better this year than it was last, we have to rely on general indicators, and I would think that looking at the number of labour disputes and the wages people make in our economy, whether unionized or non-unionized, would be good indicators.

**Mr McIntosh:** Possibly you could use that as a comparison. I couldn't really sit here and tell you how you're going to look at it from an economic standpoint, because we're talking apples and oranges. I'm here to comment on a bill regarding labour relations, not on the economy.

**The Chair:** And you've done that, sir. I want to say to you on behalf of the committee, thank you for your submission, for your interest, for your comments. You've played an important role, and I want to thank you once again for a submission that was brief and to the point and that permitted a healthy amount of time for dialogue, which was incredibly important.

Thank you, sir. Take care. Have a safe trip back home.

1900

#### LONDON AND DISTRICT SERVICE WORKERS UNION, LOCAL 220

**The Chair:** The next participant is the London and District Service Workers Union, Local 220. Please seat yourselves. Tell us your names and titles, if any.

**Ms Lin Whittaker:** My name is Lin Whittaker. I'm vice-president of the London and District Service Workers Union, Local 220.

**Ms Liza Timmers:** My name is Liza Timmers. I'm a member of the local.

**Ms Kirstn Bradley:** My name is Kirstn Bradley. I'm an organizer with the union.

**The Chair:** Thank you. We've got your written submission. Go ahead.

**Ms Whittaker:** Can we just make a couple of comments to give a bit of information to the board? Our local union represents approximately 12,000 health care workers in the homes for the aged, hospitals and nursing homes field. For the board's information, the members we represent predominantly do not have the right to strike. They're covered under the Hospital Labour Disputes Arbitration Act.

In saying that, there are inherent problems in that, and we hope at some point in time the government of the day will put its mind to making changes to the inequities in that. But we come here today to talk about the problems we face or some of the concerns we have with the present legislation, the Labour Relations Act. By way of giving background, we do not have the right to strike.

**Ms Timmers:** Four and a half years ago I became employed in what was my first unionized job. Not long after my hiring, I became the part-time union rep, a job no one else seemed to want. I considered the job to be a challenge and actively took part in all the committees and functions of the workplace. When I accepted the union position, however, I was not aware that my employer viewed the recent certification as a hostile takeover. In my brief union involvement since 1988, every grievance filed against this employer, and I might add there have been many, has been a long-winded battle, almost always ending in arbitration.

These past four and a half years have been witness to what can only be described as a blatant manipulation of the labour act by my employer. In the beginning, both



part-time and full-time employees were unionized. After a time, when full-time had been dwindled down to a very selective six, our full-time union was decertified, leaving approximately 50 part-time unionized employees.

As expected, slowly but surely we were offered full-time, non-union positions guaranteeing no less than 24 hours a week. As part-time workers, only guaranteed "equitable" hours, we became nervous about our future job security as we watched our weekly hours dwindle with our membership numbers. Within a year and a half, the part-time unionized workers were down to 12. In January 1991, my employer, without any notice at all, laid off the remaining part-time staff. At the end of June 1991, my employer decided to abide by the arbitrator's ruling made in May 1991 reinstating the remaining six part-time employees.

During all this, the full-time had their own concerns and seriously started talking union. We didn't like working the part-time hours, often working double shifts, if not short-handed altogether. There was an obvious need for a part-time relief staff. We had also taken pay cuts of \$2 an hour. We had a contract we couldn't have a copy of. We had to beg to be paid properly for vacation, sick days, stats and overtime, and what became common practice for one employee was reason for discipline of another.

We finally concluded that the only way we were going to be heard was if we had representation. This became the motivating force for the full-time to attempt recertification. Fearing our employer's history and admitted anti-union animus, we waited until he left for holidays and, in two days, consistently having to reassure staff that they would not be fired, signed up our needed 55% membership cards. At that point I mistakenly thought the battle was over and all that was left to do was post the application and negotiate a contract.

On June 11, 1991, the application was posted. On June 16, 1991, I was fired, and shortly thereafter a petition circulated. That was 14 months ago, and since then I have had ample opportunity to see the present labour act in effect. I can tell you that while there are many benefits to the act, there are many flaws keeping the benefits from surfacing.

Although the act grants me the right to organize and participate in collective bargaining, it has not allowed me the right to an expedient hearing process. Because of this, our hope for certification grows less likely with every month that passes by. Therefore, the right to participate in collective bargaining is nothing more than a dream to me.

This final attempt to keep the union within the workplace not only cost me my job but has caused my fellow workers to also fear for their jobs. When you work in a place that employs mostly women, and that means 99% women, many of them single mothers and visible minorities, you begin to understand their fear. My employer has managed to make it quite clear just who butters the bread. When you need your job, as all of us do, then you say and do things that go against your deepest beliefs in hopes of not rocking the boat. All that matters is to keep the bread on the table and the boat afloat.

My employer is quite well aware of this and thrives on the fear and intimidation he instills with his authority and

money. Because he continually seems to get his own way, my fellow employees are quickly losing hope that they will ever have fair wages and decent working conditions, never mind a union that can at least ensure a grievance process.

My employer says he can't afford a union, it would break him, yet he has had adequate funds to keep this union in labour hearings for the past two and a half years. I know his costs have been comparable to those of the union, and in no way would the certification and bargaining process have cost him what he has already spent.

That leads me to believe that the only reason he doesn't want the union is because he wants total control. If we were talking about an employer that was fair and reasonable, there wouldn't be a problem, but this employer is not fair, he's fair from reasonable, and we have some major concerns.

One of the biggest problems of the past year is the way the certification process has been allowed to continue at a snail's pace, with board rulings taking up whole days. The garbage and bull that has been allowed to accumulate during the past year is staggering, to say the least, and the sad part is that my union will never recuperate the funds spent during this painfully drawn-out process.

This is no longer a fight of principle and employees' rights; it is a fight to see whose money will last longer and go farther. Having attended approximately 15 hearings to date, with four more booked and another 16 confirmed, I wonder how my union can expect to spend another \$30,000 on this process alone.

What began as a simple certification has been turned into a circus of delays. Every employee who appeared at our first hearing to testify for the union has since been reprimanded in one form or another. Needless to say, it is becoming increasingly difficult to get employees to come forward with the truth, not to mention that the laying of additional unfair labour practice charges has further hindered our hope for a speedy hearing process.

The saddest thing about all of this is that the proposed amendments could have prevented much of it. If our part-time and full-time had been one bargaining unit, we would have had the strength and the membership to avoid decertification in the first place. It is the separate distinction that gave my employer the upper hand, wasting valuable time and money in a bitter confrontation that has left many deep scars.

Having been unemployed for 14 months already, I would like to get on with my life but find myself caught up in a variety of totally frustrating and unending nightmares. I can't get a job because my unblemished work record for the past four and a half years seems to be unfairly under question. Every time an employee comes to me doubtful and afraid, I can only say, "Hang in there, we're trying," and I can only hope that the few who are willing to testify will not be punished for exercising their right to belong.

Before I got this job four and a half years ago I was well aware of the functions of a union, as my husband held various positions within the BMW for many years, but never had he or I seen or heard of a workplace more in need of a union than the one I come from. I have since

learned different. There are many small workplaces like the one I come from that are depending on the acceptance of the proposed reform before us here today. My hope is that these hearings will bring forth enough people such as myself to show this committee just what is going on behind all the closed boardroom and office doors.

With the act written the way it is, unions are being prevented from doing what they do best, which is helping us to achieve fair wages and working conditions as well as helping us to understand our rights as workers and citizens. With so many new issues facing the working people, we need our unions not only to protect our jobs but financially unburdened by lengthy hearings and arbitration costs so that they may continue to educate and inform us of the issues that affect us, our families and, yes, even our employers.

I have learned a great deal about my union this past year and I have found that this is not about money. If it were, we would have been written off long ago. Although I am not ignorant to the fact that my employer is a businessman with the goal of making money, it should not be at the expense and wellbeing of his employees. We are the most valuable asset this employer has, not to mention adults with lives and families outside of the workplace. We only ask that we be treated as people who can and do make valuable contributions to our work and community environments.

I'm very grateful for all the support my union has shown me in the past year. I have found a reliable friend during some very rough times who has always been just a phone call away. Without the unending support system of my family and my union, my employer would surely have gotten the best of me by now. It is through our unions that we have a voice.

In closing, I ask that you support the proposed labour reform and give the working people the ways and the means so that we will not continue to be at the mercy of our unfair employers.

1910

**The Chair:** Thank you, ma'am, and once again the committee thanks you for a submission that left sufficient time for dialogue, because that's an important part of the process. Mr Hope and Mr Sutherland, in whichever order they wish.

**Mr Hope:** First of all, I'd like to thank you for your presentation. It was well put, and because of trying to organize in my previous life before becoming an MPP, I can clearly understand the problems you had. You were right when you mentioned about the employer giving up rights, because the only rights an employee has are those under the Labour Relations Act and those under the Employment Standards Act. Those are the rights the employees have. Everything else that is outside the law is the right of the employer, and you're absolutely right, it's not necessarily a matter of wages, it's also a matter of procedure.

You went on to explain your hearing process. The Conservatives have always put forward: "What about a free vote? What about a vote in a plant that will allow workers to go into the workplace? Let's make it accessible for

everybody. Let's put it right on the shop floor or wherever the workplace is. Let's put it there and have a democratic vote for every employee." I guess I want to ask you about your opinion, because you've been a victim.

**Ms Timmers:** When an employee chooses to sign a union card, that is a personal commitment and it's asking for representation. It is not unlike the manner in which we elect our government, and that is not up for revote. That is it. You vote. That's what you want and that's what you decide. As adults, I think when we sign a union card we know what it is we're asking for, plain and simple.

**Mr Hope:** I know the ongoing battle is still there, along with the support of the union in itself. But looking at all those other families that are still in there—I call them families. Yes, we're talking about one individual who works for everybody else. He or she may have a family. How do you think those families feel right now?

**Ms Timmers:** Lucky to be having a job at this point. The thing is that because this has taken so long to resolve—and it looks like we're looking at another year at the very least—there are many workers who have given up and left. There are many new workers who really don't understand where we're coming from, and they're hearing one side right now.

It is my belief that I was fired so that I could not educate my employees as to what was going on. I was the strongest union representative in the workplace, and therefore by firing me he has set an example for the rest of the employees by saying, "Okay, if you guys speak up, this is what's going to happen to you." He's scared them and we can't get them to come forward with the truth at these hearings.

**Mr Sutherland:** Liza, I want to thank you very much for coming forward. I think it takes a lot of courage to come forward before this committee and to talk about your situation. I don't think there's a great deal to add. I think you've summed up some of the major reasons why there need to be some reforms to the situation. For some reason, it's well over a year—I guess we're into, what, you said you started June 11, 1991—we're well into the 13th or 14th month of getting a decision as to whether you're going to be certified. I think that clearly shows we need a more expedited process. People's lives, their livelihood, in terms of retribution for carrying out what they feel is their right to democratically organize, shouldn't be left in limbo for that long.

Needless to say, I don't think it's in the best interests of an employer to have that going on, because obviously the employees are not going to be as productive because morale is not going to be that great in terms of wondering what's going to happen in the outcome. I think there's a great need. You've clearly demonstrated where there is a need for such reforms as are being proposed.

I also want to say even yesterday I had a woman come into my office to discuss a problem at her workplace. She works in a workplace where they have a team concept of doing work. Her work record is superb, but she's being branded a troublemaker because she wants to assert her rights in a non-unionized environment. From my understanding, she's not



at this time trying to organize, she's trying to assert her rights in a non-organized environment and not getting anywhere. She feels that the system is not working for her and she's wondering what rights she really has.

I just want to say I think it's great that you've come forward. I know it probably took a lot of courage to decide to make this presentation, but from my understanding, I think you've summed up clearly why there need to be some real changes to the Labour Relations Act.

**Ms Timmers:** Thank you.

**The Chair:** If you want to respond to that, we've got 30 or 45 seconds.

**Ms Timmers:** I appreciate the right to come forward to say something, because I know I represent quite a few more people than you are ever going to hear before this panel today.

**Mr Offer:** Thank you for your presentation. I think it's an extremely important presentation, because it really does bring out a real-life experience. We've had some very good presentations in the past and I expect we will have in the future. This certainly is one of those.

I want you to help me out in this way: I don't believe what you've gone through should be gone through by anybody. I can't help but feel that this presentation, in the most forceful and effective way, has made out the case for all employees to be able to make a choice quickly, secretly and informatively, and if it's the choice to join a union, let it be. It would seem that much of the difficulty started—and I might be choosing the wrong words—because of the number of membership cards that had to be signed.

It would seem to me that in order to deal with this matter, maybe we don't need 40% or 45% or 55% of the employees to sign union cards; maybe it should be 20%. Maybe it should be one card, and that should trigger a process that would inform the employees that there is going to be a vote, when it's going to be held, what it means to them and that they're able to vote quickly, informatively and not have to go through what you went through, because what you went through nobody should have to go through. I think you made the case; this is the presentation that makes the rule.

The legislation, as you said, isn't enough. There has to be a change, and that change has to be for a free, secret vote where the rights of employees are protected, free from coercion and intimidation. If they want to have a union in their workplace, that's the way it is. No one should have to go through what you went through. Why shouldn't there be that process in place so that what happened to you never happens to anybody else in this province?

**Ms Timmers:** I believe that what you're suggesting is open season for employers. I think the way the process is now, collecting the membership cards, is the best way to go about it. We can conduct it without the employer having any notice of what's going on.

The employer I work with, believe me, has been referred to as Nightmare on Elm Street. This place is not a nice place to work. By allowing us to collect our 55% membership, whichever it is, that allows us the freedom,

without him having to be aware of what we're doing. Because when we decide to unionize, and if we have the number of members necessary to go through with that process, then that's the way it should be. As far as the vote goes, that gives him an opportunity to intervene; and believe me, he will.

**Mr Offer:** In your presentation you said that with that 55% you can make the organizing drive and it can be done and there's no problem, because the employer won't know what's going on. My thought is that I don't think that bodes well for the future relationship of the employer and employee. I'm saying it doesn't have to be 40%, you don't have to have 40% of the employees sign union cards. What if the trigger point is 20%? What if the trigger point is one employee who has decided that the workplace should be unionized, and that triggers the mechanism? Would you then support a free, secret, informed, free from coercion—and there can be rules put in place; the ministry is attempting to do it in Bill 40—

**Ms Timmers:** No, I would not.

**Mr Offer:** Okay. I'd like to thank you, because I believe your presentation was very helpful for me.

1920

**Mrs Witmer:** Liza, you certainly have raised our awareness again about some of the things that are happening in the workplace. You've mentioned the situation you've been subjected to in your attempts to unionize and the amount of dollars it's cost your union. That's one thing this process is certainly demonstrating to us. Day after day we hear of experiences in the workplace and of areas where obviously the Labour Relations Act could be improved upon. However, many of the things you have mentioned and which others have mentioned go beyond reform of the Labour Relations Act. There are certainly other acts and legislation that need to be considered.

We heard today about someone not unlike yourself who was placed in a situation. It was Mr Turner. He was part owner of a construction company that employed between 13 and 25 people. He was put in the unfortunate position where, when another company went broke and he took over one of the employees of that defunct business, because that business was unionized and this employee was considered to be a key asset, this was considered a sale of the business. Suddenly, he found his business bound by the union's collective agreement. His firm was unionized and his employees, who numbered between 13 and 25 people, even though they didn't want a union and wanted to remain non-union, were placed in a position by the board where they were unionized. We're seeing that throughout this province people have no choice. I think that's an issue we need to deal with. In fact, this man is now in a position where he's considered a saleable asset and can only seek employment with a unionized firm. There's absolutely no freedom of choice.

It's unfortunate that this government didn't give people throughout the province an opportunity to put forward issues that are concerning them at the present time and then look at solutions to the problems, because there are many problems in this province. Unfortunately, the manner

the government has used to introduce this legislation isn't going to address all of those concerns.

Everybody needs to come out of this process feeling good. Whether you're an employee, an employer, no matter who you are, it has to be a win-win situation. There has to be compromise. I regret that people such as yourself haven't had that opportunity. Nor did Mr Turner have the opportunity to say: "This is the problem with the Labour Relations Act. Let's determine how we can improve upon it and, through consensus-building, arrive at some solutions."

Thank you for your presentation.

**The Chair:** Thank you, people, Liza Timmers, Kirstin Bradley, Lin Whittaker.

**Ms Bradley:** May I say something?

**The Chair:** You sure can.

**Mrs Cunningham:** It's not 7:30 yet.

**The Chair:** I know it's not. One moment, Ms Cunningham. This woman wants to say something, and then Ms Cunningham can ask a question.

**Ms Bradley:** First of all, I believe in successor rights from one business to another; also if the place is contracted out. We represent some employees—for example, one part is contracted out to another service. I believe if another contractor crew should come in, the union should have successor rights to those people so they wouldn't—

Interjection.

**Ms Bradley:** You just spoke about successor rights.

**Mrs Witmer:** No, it was one employee.

**Ms Bradley:** Yes, but I'm talking about a group of employees.

**Mrs Cunningham:** Mr Chairman, with due respect, Ms Murdock has asked for that case so we can take a look at it, because I don't think anybody, with the facts we've got today, can decide one way or another.

**Mr Chairman:** you'll have to allow me a minute here to ask somebody I've worked with over the years—

**The Chair:** That implies you really mean two, but you've got two.

**Mrs Cunningham:** No, I'll just ask the one.

**The Chair:** Two minutes.

**Mrs Cunningham:** I'm going to ask Lin Whittaker a question. We have worked over the years in environments where we haven't always been on the same side, but I think we've had some pretty good experiences. We have seen improvements in the workplace and we've seen almost every example of good employer-good employee. I wondered if you could give us an opinion. On page 3 of the brief today—Liza, while Lin is looking at that, I want you to know I feel the same as everyone else before the committee that you're very brave to come here. It's a terrible thing to have to go through what you've gone through.

**Ms Timmers:** It's not a matter of bravery; it's a matter of pride.

**Mrs Cunningham:** I admire you. I just want you to know that.

With regard to the snail's pace: I'm not just talking about the rulings and certification but other things you've been involved in and I've been involved in which have been so frustrating. Can you give the committee some more ideas over and above what we already see in this legislation?

**Ms Whittaker:** Specific to what?

**Mrs Cunningham:** The slowness of the hearings: why things last so long and it's so expensive on either side.

I'll tell you what my concern is. With this new legislation, we've unfortunately come down to one side versus the other, which is not something I like to live with at all. It seems people come before the committee and say those things, which upsets me, because I think my colleagues and I, with due respect to the position we've all been put in with regard to this law, are looking for solutions.

When it comes down to this timely process—and you know the kinds of things that go before these labour boards—we've been told that there now will be more arbitrators and they will have more responsibilities and more power and we're just bogging the whole process down more. I wondered about your opinion on that in a very broad sense.

**Ms Whittaker:** We're talking about specific to the Labour Relations Act or the other government legislation?

**Mrs Cunningham:** The new amendments, but you don't have to speak to the new amendments. You can speak to your experience now. What would you recommend to speed things up? You're down there all the time. Is it the people?

**Ms Whittaker:** It's a process that can be manipulated. There are so many variables that I'm not sure. The structure's problematic. The bottom line for me, Dianne—and we've sort of talked about this before—is that to the extent that people choose to organize, they've signified that. The legislation chooses to doubt their word as though they didn't really mean that. It's very patronizing. I think it's specific to a union. The idea of sharing power is so abhorrent to so many people.

I can't imagine any other process where once the decisions are made—when I chose to vote in the provincial government or the federal government my vote somehow said: "Wait a minute. We'd better question that." Why is it not good enough for us? Why is it so hard for the powers that be to accept that when people have signified their intent, that's what they really mean? If they don't want a union, there's a process through the act to decertify; let the members make the choice to join, but let nobody else interfere with that.

That's specific to the act. There are apparent problems with the Hospital Labour Disputes Arbitration Act; we'll save that for another hearing.

One of the frustrations for us is that we went before the labour board with this person and I serviced this place.

**Mrs Cunningham:** I can't imagine this being one of yours.

**Ms Whittaker:** It is; it's mine. We're dealing with a person in a collective agreement who clearly—and I don't believe this is confrontational. I think a lot of the employers



we choose to deal with have a sophistication. We've learned that we have a symbiotic relationship: "You need us, we need you, and sometimes we can help you." There's a lot of employers here today who would say, "Yes, London and District Service Workers have helped us in terms of creating a more stable workforce." We don't shoot kneecaps any more, okay? We're a viable—

**Mr Ward:** Not that you ever did.

**Ms Whittaker:** Not that we did, but the view that somehow—

**Mrs Cunningham:** Watch out for Brad. He remembers those kinds of things.

**Ms Whittaker:** I think that's a phobia of people who don't understand about unions and don't want to understand, and sometimes find it so abhorrent that we exist.

This is an employer which, under the same legislation—I've gone through labour board hearings; I'll probably retire still going through this one. This is how bad it is. The collective agreement says, "Work schedules will be posted." That's pretty scary, huh, that the union should demand that schedules should be posted.

These employees, under the Nursing Homes Act, which sets out care, are governed by legislation. It's so bad that the employer won't even post the work schedule because he says, "No union is going to tell me how to post work schedules." So our members have their work schedules posted in his office. That's the sort of power. Everywhere we turn, we're fighting. The assumption is that unions—that's all we do, we fight. It's not true. We react the best way we know how.

1930

**Mrs Cunningham:** How do you change it?

**Ms Whittaker:** I think the legislation has allowed that to happen. I think there have to be sanctions placed on something that totally frustrates the system, that uses my tax dollars to sort of—

**Mrs Cunningham:** Do you think those sanctions are in these amendments? I don't. I personally don't think they're there.

**Ms Whittaker:** I have faith in the NDP to protect the working people of this province, yes.

**Mrs Cunningham:** But I don't think they're there.

**The Chair:** And having said that—

**Mrs Cunningham:** Stop while she's ahead, Mr Kormos.

**The Chair:** I may be the wrong person to have interrupted you, but as you said that, I want to thank you on behalf of the committee for your presentation. Ms Timmers, Ms Bradley and Ms Whittaker, you spoke effectively on behalf of the London and District Service Workers, Local 220. We thank you for coming here. There's been a healthy and lively dialogue made possible by your eagerness to participate in it and by the fact that your submissions were sufficiently brief to permit that. Thank you kindly.

#### CANADIAN CHEMICAL PRODUCERS' ASSOCIATION

**The Chair:** The next participant is the Canadian Chemical Producers' Association. If those presenters would have a seat and tell us their names and titles, if any, we've got your written submission, 15 pages. That is filed with the committee and forms an exhibit. All committee members will read those. Please try to save the last half of this half-hour for exchanges. Go ahead, sir.

**Mr Gordon Catterson:** I will introduce the two gentlemen with me. One is Doug Cook, who is the Ontario regional manager for the CCPA, and the other is David Goffin, who is vice-president in charge of business development for that same organization. I'm identified with Dow Chemical. In fact I am employed by Dow Chemical, but I am here on behalf of the Canadian Chemical Producers' Association.

What I intend to do is to read some of the highlights from this submission and then I'd like to make some editorial comments as I go through.

The Canadian Chemical Producers' Association has a membership of 67 companies producing a broad range of petrochemicals, inorganic chemicals and other organic and specialty chemicals. It is the third largest manufacturing sector in Ontario with 1991 shipments totalling \$12.2 billion.

In 1990 the industry ranked third in total research and development dollars spent annually and second in terms of spending as a percentage of shipments. It is the seventh-largest employer in the Ontario manufacturing sector, employing 57,000 people. Average salaries and wages at Ontario member companies were \$48,000 in 1991, well above the manufacturing sector level.

The point we'd like to make here is that our opposition to these changes has nothing to do with wages or benefits. We actually are a very high paying industry. We have a very high level of benefits. So there's nothing in here that is being opposed to try to lower wages or anything of that kind.

The chemical and chemical products industry is a leader among industrial sectors in terms of productivity. During the period from 1985 to 1990, member companies had a real annual increase in value added per employee of 4.6%. International trade has become an increasingly important factor in the success of CCPA member companies, with exports as a percentage of sales increasing from 19% in 1969 to 40% in 1991.

Last February, when we responded to the Ontario government's paper titled Proposed Reform of the Ontario Labour Relations Act, we listed the four following fundamental concerns:

First, the reform package as a whole is perceived very negatively by the international investment community. I was present in Detroit when the deputy minister made a presentation to some American business leaders, and I can assure you I heard at first hand of their distaste for these changes.

Second, the government has provided no sound rationale for proceeding with the radical and extensive reform of labour relations legislation at this time.

Third, specific reform proposals could seriously hinder the chemical industry by endangering its reputation as a stable and reliable supplier in global markets.

Fourth, the current consultation process for assessing the proposed reforms cannot be meaningful when the entire reform agenda was developed without business input.

We continue to have virtually the same concerns about the amendments as proposed in Bill 40.

At each stage of the process, we have been assured by the government that the proposals was simple labour's wish list and that ultimately a more balanced package of reforms would be proposed. That has not occurred. Now business is confronted with proposed legislation that is no better than the earlier package of proposals produced over the past year or more.

Talking about the proposed purpose clause: Since the proposed wording would outline the fundamental purposes of the act with the intention of helping the board to interpret the legislation, and since the amendments would give the board sweeping new powers, the purpose clause would have the potential to affect the interpretation of every other section of the act.

Since the government appears to be determined to include a purpose statement, we would suggest that it should be based upon a series of tightly drafted principles. The right to organize should be guaranteed; the fundamental democratic right of the individual to freely choose whether or not to join a union should be enshrined; the free collective bargaining process should be unencumbered by the legislation; harmonious labour relations should be promoted, and an effective and fair mechanism for dispute resolution should be provided.

One of the concerns we have in this legislation is the removal of the individual's right to express opposition to a union. We are very concerned about people being swept into a union against their wishes. The elimination of the petitions does this. This and the ability to amalgamate bargaining units, really without regard to the wishes of those people in the bargaining units, are issues that we think are concerns.

We would recommend redrafting the purpose clause in Bill 40 based on those principles.

Restrictions on the use of replacement workers: These are the proposed amendments that cause the greatest concern to the CCPA. The changes the government has made to the discussion paper proposals are insufficient.

The ability to continue to supply customers during a work stoppage is a competitive tool of paramount importance for CCPA member companies as they compete in global markets. The chemical industry, as a continuous process industry, has companies that can and do operate efficiently and safely during work stoppages. This is not done as an anti-union strategy or to force settlement of the contentious issues that caused the work stoppage. It occurs because for many chemical companies, the ability to operate and to ship product during a strike is absolutely essential in order to protect global markets.

In today's global marketplace, both domestic and foreign customers can source from many locations, and they will do so if faced with an interruption of supply due to a

work stoppage or for any other reason. Once lost, these customers, and the jobs dependent upon them, often do not return to the Canadian supplier for a long period of time. Sometimes they never return. There is no doubt that the restrictions on the use of replacement workers would be viewed negatively by investors when they assess whether to build new chemical plants in Ontario.

Our recommendation is that the proposed amendments dealing with replacement workers should be deleted from Bill 40 in their entirety.

I'd like to make another comment here, and it has to do with the phenomenon which is currently occurring in the chemical industry. It has happened with some companies. Some of you may remember a company called CIL. You won't find CIL any more. They're now ICI. They operate on a North American basis. CIL was the major chemical company in Canada. They are now part of ICI. If you go looking for their earning statements, their profits, you will find them buried in North America. B. F. Goodrich is another company that is following a North Americanization strategy. The company I work for, Dow Chemical, is doing the same thing.

Just to clarify that, normally companies such as Dow operate in geographic areas: in our case, Europe, the Pacific, Latin America, the US and Canada. We have five geographic areas. We will be moving or certainly looking at moving to four geographic areas, with the United States and Canada operating as a single geographic area. We've always operated as a global company, but now investment decisions will be made on the basis of: Do we place this, not in the United States or Canada, but do we place it in North America?

The competition for investment dollars is not just going to be between different provinces in Canada; it's really going to be between, in the petrochemical industry, largely Ontario, Quebec or Alberta, and Michigan, California and the Gulf coast. Louisiana and Texas are the major locations down there, and that has a good deal of significance. It's an important point and one that we've been consistently trying to get across.

There was a comment made by a gentleman, a labour representative, and I think it might have been in Thunder Bay. The comment he made was: "Gee, they've got this kind of legislation in Europe, all over the place. What's the problem? They seem to get along fine." The point is that if every jurisdiction in North America had this legislation, we wouldn't have a problem. The difficulty is that Ontario is distancing itself with this legislation, and it's a barrier to investment.

#### 1940

We have difficulty understanding why, at a time when Ontario is looking for investment, looking for jobs, it would put a barrier in place here. I don't think anybody, any fairminded person, would disagree that these labour relations changes are heavily favoured towards unions and against business. Why would we put any kind of barrier in place for business making investment decisions in Ontario?

The next point we would like to make is the need to safeguard employees' rights to make informed choices.



These are sections 8 and 10 of Bill 40. The Bill 40 amendments dealing with the certification process are intended to safeguard employees from possible employer interference or intimidation during organizing drives. The bill does nothing, however, to offer the same protection from similar actions on the part of union organizers.

This is a serious gap because, for every story that is told about employer indiscretions, the same number about concerning union intimidation of employees or misrepresentations made to them. I've been involved in organizing campaigns and I've talked to people who were told: "Don't worry. Sign the card. You'll get a vote." Of course, as we all know, that just has not been true in Ontario.

The elimination of employee petitions following a union application for certification would make it even less likely that the true wishes of employees would be heard. I have attended certification hearings where the petition was a very valid issue. It's really the only mechanism, once the cards are signed, for employees to voice their opposition to a union. That is now gone.

In our view, there's no question that the best way to ascertain the true wishes of employees would be to mandate a board-supervised secret ballot vote for all union certification applications. We would recommend that that be done.

One of the things that is of interest is that we did make this comment in our submission to the minister here in London back in February, I was present where other people have made that same comment and I've read editorials in the newspaper that have commented on it. To this day, as far as I know, Minister Mackenzie is still saying: "Gee, that's an interesting idea. It's the first I've heard of it." In fact I know we made that position.

The next section gets to be a little technical and I'll go through it quickly, but there is a point here. This has to do with enhancing the powers of the arbitrator, section 23 of Bill 40. This section proposes expanding the powers of the arbitrator to allow for the interpretation of other employment-related legislation such as it pertains to the administration, interpretation, application or alleged violation of a collective agreement.

Bill 40 would also empower arbitrators to establish the real substance of matters in dispute by allowing them to determine questions of fact and law. Bill 40 would give arbitrators power to override the terms of a collective agreement to extent time limits and to issue production orders. In addition, Bill 40 also allows arbitrators to reach out to any employment-related legislation to aid them in their decisions.

It is CCPA's opinion that in matters pertaining to an existing collective agreement, the arbitrator should remain within the confines of the terms of the agreement and limit the scope of the arbitrations to the interpretation of the agreement itself.

To sum up, CCPA opposes the amendments in Bill 40 that would extend the jurisdiction and powers of arbitrators and recommends that they be deleted.

I just want to touch very quickly on the fairness doctrine, because that was something that was in the original

proposal from the labour side. The labour report of the Burkett commission suggested that the leaked cabinet submission talked about it and it was dropped at the discussion paper stage.

I was glad to see it go because, frankly, the fairness doctrine is a US concept that really doesn't have any place in Canadian jurisprudence. It's really a quid pro quo to the relative difficulty of certification and needs of decertification in the US.

These things I've just covered are the fairness doctrine in another guise. The principle of residual rights, management rights in Canada, is one that has been upheld by arbitrators. The fairness doctrine, which some arbitrators tried to introduce back about 15 or 20 years ago, was pretty soundly rejected by Ontario arbitrators.

This, in effect, will allow an arbitrator to go on a fishing expedition. If he can't find it in a collective agreement he will find it somewhere, whether it be in the Pay Equity Act or whether it be in the Ontario Human Rights Code, the upcoming Employment Equity Act. Wherever the arbitrator has to find support for his decision he'll find it, and it's not a position we're very comfortable with.

Finally, just to comment quickly on the duty to bargain for an adjustment plan, we would point out that the amendments do not address how closure of bargaining would occur if there's a failure to agree on an adjustment plan. Many collective agreements already have provisions for severance pay and those sorts of things in case of a closure.

There is a question here of what happens if a plant does close and the union doesn't like what's in the collective agreement or if a collective agreement has no language which talks about closure and the two sides can't agree. How do you go about doing it? Does the union then go to the labour relations board and say, "Well, you'd better impose something on this company?"

We're concerned about those questions of either reopening a valid agreement or the board forcing some kind of closure agreement which the company really can't afford or maybe even forcing the company to continue to operate. We would prefer to see greater reliance placed on the proposed non-mandatory code which would lay out a number of principles to guide employers and employees in facing major adjustments in the workplace.

In conclusion, we would comment that in last November's discussion paper we recommended that the government not proceed any further with the reform process but rather initiate a meaningful consultation process in which all parties—business, both unionized and non-unionized, labour and government—meet to evaluate and reach consensus on the need for reform. CCPA is still convinced this is the only course of action that would lead to recommendations to reform that would be acceptable to all parties, and it would help Ontario respond to the growing challenges of global competition.

We would urge the committee to take these comments into account during your deliberations on Bill 40.

**The Chair:** Mr Brown, three and a half minutes, please.

**Mr Brown:** Quickly then. Thank you for your presentation. I am somewhat familiar with the petrochemical industry, being a Sarnia boy. One of the things I was wondering about is the effect of replacement workers in that particular industry. Over the period of these hearings we've heard from industries saying they have specific problems with replacement workers in that they don't think this one-size-fits-all legislation really works.

In the petrochemical industry you have a situation where, if a plant closes or during a strike, in many cases, it can conceivably affect many more operations, because the feedstock from that particular operation goes to another operation and there is no other supplier. There's no way to have another supplier. Is that a problem?

**Mr Catterson:** Yes, it is. An example will be the company I work for. We produce vinyl chloride monomer that is sold to Esso chemical, which has a polyvinyl plant. We're their sole supplier; it's done via pipeline. If that plant shuts down, the Esso plant shuts down as well.

Just further on that, there have been four strikes in the Sarnia area over the last 20 years: two at my company, one at Cabot Canada carbon division and one at Ethyl. All of those companies are still there, still operating, still providing jobs. Whether that would be true if they were forced to shut down is anybody's guess.

**Mr Offer:** If I could just carry on with that, I was wondering, during the strikes which you have alluded to, how did the companies operate then?

**Mr Catterson:** I have personal experience in both Dow strikes. I worked during the 1973 strike as an operator, and in the strike in 1988 I was at our corporate headquarters. We can operate the plants fairly easily from a operation standpoint. The plants are highly automated. The chemical industry is a highly capital-intensive industry. For literally hundreds of millions of dollars in investment, you have relatively few people running it. So it's not that difficult to run.

The difficulty comes first in maintenance areas and the other in providing security. We have to bring in people from other Canadian locations to supplement the people in the plant. The supervisory people in the plant can operate the units without a great deal of difficulty. They do need help in providing security and maintenance.

**Mr Offer:** Thank you very much.

**Mrs Witmer:** Thank you very much for your interesting presentation. I appreciate the recommendations you've made to the committee as well. You mentioned you were present at the meeting in Detroit which the deputy minister participated in. I guess one of the concerns we've been hearing is that this labour law has created some fear and uncertainty as far as future investment in Ontario. Obviously, if we don't have investment, we're not going to have new job creation.

I'd like you to just share with the committee the feelings of the US business community in regard to the proposals we have before us.

1950

**Mr Catterson:** It was very negative. There were representatives of several large US corporations. Some of the

people there who had worked in Canada were very familiar with the Canadian situation. There was not one kind word said in about two and a half hours of the meeting. They were very negative on it and the deputy minister did not go away very encouraged, I'm afraid. They saw it as a negative and basically said, "Why would we invest in Ontario with that kind of legislation?"

**Mrs Witmer:** What particular sections of this bill were they most concerned about that would lead them to take their investment dollars elsewhere?

**Mr Catterson:** The replacement worker one particularly. These were people from Detroit, so a number of people from not just from the automotive industry but the automotive parts industry. While it may seem, "Why would the automotive industry care; they shut down during strikes anyway," in fact there is a lot of stuff goes on, a lot of shipping. A lot of parts manufacturers operate with just-in-time inventories. During a strike they will ship forming dyes, forming tools, out to other companies to make the parts and ship inventories. They will stockpile inventories and ship them during a strike, and of course they wouldn't be able to do that during a strike.

**Mr David Goffin:** If I could just add to that, I would say that with many companies in the United States the discussion paper itself created quite a shock and a negative perception. The fact that the government has not moved forward with everything that was in the discussion paper is probably not recognized. Once people took that negative perception of the direction we were headed here, I don't think many people in the United States have carefully studied what the bill says now and seen what changes have been made.

Perhaps a mark of the concern with our association is that we don't usually intervene on labour relations issues. When the proposals for amendments first came forward, we assumed that that's what we would do; we would leave it to other organizations to carry the ball on this one. But it was our board of directors, which is made up of the CEOs of 17 major chemical companies, that said, "No, on this one we want you to go forward and put forward our concerns as a chemical industry, because we do view this very seriously."

**The Chair:** Ms Cunningham has time for a question without a preamble.

**Mrs Cunningham:** It'd probably take longer thinking about it than if you'd let me say it.

**The Chair:** I hope you leave these people time to answer.

**Mrs Cunningham:** There are a couple of examples of companies that are wanting to invest in Ontario, according to our colleagues over here. I'm not quite certain which one. Bob, you mentioned one earlier. Was it Shell?

**Mr Huget:** Yes.

**Mrs Cunningham:** Of course we've heard the thing about Ford, but specifically Shell, I'm not aware of that one. It was new to me tonight, so I haven't heard you say it before. Perhaps you could respond in regard to that particular company. It must be one that you know a lot about.



**Mr Catterson:** Yes, I was here earlier this afternoon and Bob did make this comment to Gerry McCarthy, who is the chamber manager.

In fact there are a couple of things. One is, keep in mind Shell is talking about expanding its polypropylene plant. This is a plant that is in place. They have an infrastructure, they have trained operators. The site is already organized. Bob is very familiar with it since he had worked in the past on that site. There were a whole host of things that caused them to make that decision. It's quite a different matter to bring \$300 million of new investment in. They already have the markets. As I say, they've got the operators, they've got the infrastructure, they're already organized, plus the changes the government made in the capital cost allowance and in the provincial income tax were very helpful to them.

The other thing I would say is, Bob, I think you're probably going to get a call—and I have been authorized to say this, I understand—from the vice-president of Shell to tell you, "Don't start counting your chickens just yet."

**Mr Huget:** Thank you for your presentation. There's a lot in this presentation and there are a number of things you raise in the written document you don't raise in the verbal part. I think particularly the responsible care initiatives and things like that are worth reading about in terms of how you're handling your business.

Your industry obviously is important in and of itself to the economy of Ontario, but I think it's got a very interrelated role to play with other manufacturing industries.

I want to get to the investment perspective. You raise, and I agree with you 100%, that your industry is by and large very capital-intensive and not necessarily labour-intensive. When we look at investment, for example, from Ford Motor Co of some \$2 billion, which is a very much more labour-intensive industry than yours—and I believe that the products your industry manufactures in this province and elsewhere play quite a significant role in the manufacture of automobiles as well.

I guess my point is, a company like Ford, which is a labour-intensive business, commits to \$2 billion worth of investment. I guess I would wonder why an industry like yours, for example, which is not nearly as labour-intensive, would be concerned about a negative impact on investment. I guess you could just help me understand why your approach would be somewhat different than Ford or General Electric or Glaxo or 3M or any number of others.

**Mr Catterson:** The crux of our position is that we can't operate during a strike, and that's vital to our industry, to be able to continue to supply, because our plant in Sarnia supplies around the world. A lot of our customers are in Canada and the United States, but we in fact ship every year to something like 50 to 60 different countries all around the world. We ship to the Pacific area, we ship to Europe. So that's sort of the crux of the issue. Our ability to operate during a strike is very, very important to us and to our customers.

**Mr Goffin:** It's the thing in the association that I probably hear most quickly when we are unable to supply product offshore, whether it's because of a strike or other

reasons in the port of Vancouver or whatever. As Gord said, although the United States market is very important to us, in the plastic resins area, for example, about 30% of our exports go to southeast Asia, and those are markets that we are desperately clinging to. If we cannot supply those markets and the customer goes elsewhere, it is very difficult to retain those customers. There's huge new capacity coming on in that area over the next 10 years, and we need every advantage we can get to hang on to what we have there and hopefully expand it a little bit more.

**Mr Sutherland:** On page 9 of your submission you say, about the use of replacement workers, that these proposed amendments cause the greatest concern for your association. We know that 95% of all labour negotiations are settled without a strike. Of the remaining 5%, we know that replacement workers are used in very few of them.

Have you surveyed your members to see whether your percentages are the same in terms of 95% of them resolving without a strike? Also, how many of your members have used replacement workers in the past during work stoppages?

**Mr Catterson:** Certainly a very high percentage would operate in the event of a strike. Strikes just don't happen all that often. As I said, in the last 20 years, Sarnia, which is the major centre for petrochemicals in Canada, has had four strikes. A very large percentage of them would operate during a strike. The point is not just the strike, though. I'm responsible for labour relations, and I routinely get contacted by customers during negotiations. They say, "How are negotiations going?" "They're going fine." "Okay, you got a deal yet?" "No, no deal." "Keep us in mind and let us know when you get a deal." What they do is they outsource during those periods of time when we're in labour negotiations, because they're never just quite sure and they don't want to suddenly be surprised, so they will start looking at other suppliers.

So it's not just in the event of a strike; it's the whole labour relations climate and "Are you going to supply now?" Dow has an excellent record and it's pretty comfortable with us because it knows that in the past we have operated during a strike and that we have been consistent and reliable suppliers. That's generally been true of the petrochemical industry. But if we get into this legislation, it could have a pretty devastating impact on us.

**The Chair:** I want to say thank you to the Canadian Chemical Producers' Association for their interest in the legislation and, of course, for their eagerness and willingness to come here this evening and participate in this hearing process. You've made a valuable contribution. Thank you, gentlemen.

2000

#### OXFORD REGIONAL LABOUR COUNCIL

**The Chair:** The next participant is the Oxford Regional Labour Council, if those people would please come forward, have a seat, and tell us your names and titles, if any. We have your written submission of some 15 to 20 pages. Please, tell us what you will, but try to leave enough

time, at least the second half of this half-hour, for exchanges and dialogue.

**Mr Broderick Carey:** My name is Broderick Carey. I'm president of the Oxford Regional Labour Council. With me is James Davidson. He's a member of the executive board of the Oxford Regional Labour Council. It should take us about 17 minutes to go through the brief and then we'll be ready to work on answering questions for you.

**The Chair:** You can either read it verbatim or you can highlight it.

**Mr Carey:** Most of it will be verbatim and we'll take it from there.

On behalf of the Oxford Regional Labour Council, I'd like to thank the committee for giving us the opportunity to come before you and talk about our concerns. We represent over 8,000 members in the county of Oxford, in such diverse industries as retail, auto, textile, agriculture, open-pit mining and federal and provincial civil servants.

We are here today to respond to Bill 40, the government's proposed amendments to the Labour Relations Act. This act and the proposed amendments are most important to our members and to the labour council. Our daily experience in representing and defending working people provides us with a particular insight as to the merits of the key proposals Bill 40 speaks to.

The Oxford Regional Labour Council will try to give the members of the committee as balanced a view as possible as to what we support in the amendments, why we support it, and where, in our opinion, the proposals are either incomplete or as yet inadequate. Our submission will not touch on all the amendments, but we support the thrust of the amendments even though we do not speak to them.

The purpose clause: The Oxford Regional Labour Council supports the amendments in section 5 which will upgrade the current act's preamble, whereby adjudicators will be required to advance such purposes in their rulings, making decisions consistent with the act's new purpose section. Although the Ontario Labour Relations Board or courts have considered the preamble when conducting a judicial review of the board's decisions, in most cases little emphasis is placed on the preamble.

However, the objectives set out are not as clear and as strong as they could be. We believe it should be the objective of the act to recognize that effective trade union representation is necessary to advance equality between employers and employees. Although the proposed purpose clause represents an improvement over the current act's preamble, there is considerable room for improvement.

The right to organize: The right to organize has been extended to a number of groups currently excluded. The Oxford Regional Labour Council can only view this as a positive development. Significantly, the proposed amendments will remove the exclusions of domestic, agricultural, horticultural and silvicultural workers, hunters, trappers and professionals.

There are, however, some weaknesses pertaining to some of these groups that are not addressed in the amendments, eg,

mechanisms for bargaining for domestics and procedural changes for organizing for hunters and trappers.

Organizing and certification: This section represents the government's response to the substantial hurdles faced by employees when they attempt to obtain trade union representation.

Protection for employees from unfair labour practices during organizing campaigns: We wish to go on record as recommending that the act be amended such that when an employer has knowledge of an organizing campaign, he or she must obtain leave of the board before disciplining, discharging or removing any employees from the prospective bargaining unit.

The union should also be able to go to the board for the purpose of applying for interim orders of reinstatement. Such orders could be made within 48 hours of the union providing evidence of an organizing campaign and establishing that the grievor is an employee.

Our thinking in this matter was influenced by our hard experiences. In our view, similar to the employers, who already have an expedited process for resolving complaints of illegal strikes, employees need an expedited process for the resolution of complaints that the employers are interfering with the ability of the employee to achieve collective bargaining rights. Speed is an essential element of the decision by workers to put themselves at risk to an employer's reprisals through the decision to unionize.

Where a union requests to expedite hearings under the section of the proposed amendments stemming from a complaint under section 91, the hearing must convene within 15 days. This amendment varies significantly from the trade union recommendations and the Ministry of Labour's own discussion paper of November 1991 which suggested a seven-day waiting period. This significance rests with the ability to deter employers from committing unfair labour practice. We hope it will be successful.

Access to third-party property: We support the amendments that provide employees and the union representatives the right to be, for the purpose of organizing, on the premises "to which the public normally has access and from which a person occupying the premises would have the right to remove individuals." This means that union organizing activities can now take place on private property to which the public has regular access, such as shopping malls and industrial parks.

Membership fee eliminated: The main effect of the elimination of the \$1 membership fee will be to make it easier to establish union membership before the board. We support this proposal, as it eliminates objections that the employer uses to delay and frustrate a certification application.

Support required for certification: The amendments propose that the amount of membership support a union must have before it is entitled to automatic certification will remain at 55%. The amount required to have a representation vote on application for certification is lowered to 40%. We are disappointed that the amendment did not move to the lower percentages needed in both instances to those similar in other Canadian jurisdictions.



**Access to lists:** The government's failure to provide amendments in this area is a significant omission. Opportunity is there to legislate union organization. The union's access to the employee list upon application for certification would go far in this important area. We ask that the government look again at this issue.

**Petitions:** Under subsections 8(4) to 8(6) of the amendments, limits are placed on evidence a board may consider in certification applications; namely, it cannot consider evidence filed after the date of certification application. This is a welcome step in the right direction. However, because of the frustration to employees caused by delays and expense of litigation, it is our view that the petition should be explicitly eliminated from the process.

**Unfair labour practice certification:** One of the two prerequisites for unfair labour practice certification is being eliminated. It will no longer be necessary for a union to establish that it has achieved "membership support adequate for the purposes of collective bargaining" before being certified. The purpose of this change is to deter an employer who acts early enough in the process to avoid current unfair labour practice provisions. This will go a long way in restricting blatant anti-union acts by an employer during an organizing campaign.

The board now only needs to be satisfied that the true wishes of the employees are not likely to be ascertained, given the employer's unfair labour practice, such as: discharge of a union organizer or a member; the suspension, surveillance or interrogation of employees for union activities; threats of layoffs or contracting out of work to avoid certification.

In this area the council has an example of one particular drive that has created so much bitterness that employees actually feared for their safety. The company used every tactic of harassment, intimidation, petitions and charges that have been documented in organizing history. There is proof of management counselling employees on how to write petitions, having employees spy and report weekly on other employees' activities, paying employees to hand out petitions on company time and property. There is proof of payoffs and questionable activities on the part of lawyers representing the petitioning employees.

In the end the union won the drive after the company agreed to drop its charges if the union promised to keep proof of the latter actions out of the hearings. Because of the mistrust and bitterness created by the drive, which is just now starting to dissipate after two years, the council felt it was best not to mention the name of the company. This drive started in February but, because of the tactics used, it took until December before the employees were able to obtain their first agreement.

In organizing drives at Johnson Controls in Tillsonburg, the use of petitions, questionable reverses of membership fees and unfair labour practices helped to stop the first application and were used again in the second and successful drive.

In the first drive the union signed 59% of its workers to membership cards. At this point the company had a petition sent out and brought the percentage down to 53, causing a vote to be taken. The union lost by two percentage

points. In the second application the union applied for certification with 60% of workers. Once again a petition surfaced, but it only brought down the percentage to 58. The following day two employees came forward to say they had not paid their \$1 fee, creating a series of hearings that delayed the certification and contract negotiations for months.

During the drive, the employees were threatened, especially if they showed any outward support for the union, such as wearing CAW T-shirts or hats. The company had letters printed in their local newspaper and handed out leaflets to the employees with innuendoes of plant closures and loss of benefits if the employees chose to join the union. Supervisors refused to talk to employees. Julie Herron, an employee involved in the drive, was called in for harassing employees, but after she refused to be intimidated, the company backed down.

All of these tactics contributed to many months of delay and years of mistrust and bitterness that is just now beginning to diminish. The following is a statement by an employee in one of our area plants that was recently organized, whose comments should be included in this section:

2010

"I, Dale Hammond, had taken what I thought was my right under the law to sign a union card at my plant. At that point, and for the next several months during the drive, I was harassed and intimidated to the point I actually feared for my safety. Only after the harassment started did I decide to help in the organizing drive. During the drive, I had to appear numerous times before OLRB on phoney charges that were always unfounded. I find it very difficult now to forgive the company for the actions it took against me just because I chose to join a union.

"I always believed that in a democratic society, a citizen should be free to exercise his rights under the law. Obviously, there must be something wrong with the law if this kind of intimidation is allowed. For these reasons, I strongly support the changes to the Labour Relations Act and urge the committee to pass these amendments so that in the future, other employees will not have to live through these kinds of actions."

**Structure and configuration of bargaining units:** The Oxford Regional Labour Council strongly supports these amendments.

On the use of scabs—what we'll do is head right into the conclusion. Let's see how the time's going.

**Conclusion:** The government of Ontario is to be commended both for initiating a full consultation process enabling all views to be heard and for proposing significant amendments on the labour law reform. Bill 40 represents a far-reaching and progressive package of provisions which will help working people in Ontario maintain and advance their standard of living and quality of life.

The labour council could not truly emphasize the importance of these reforms without commenting on the statements and the ludicrous campaign being staged against workers in this province.

The chambers of commerce and big business groups in this province believe they have the exclusive right to make decisions about labour relations and the economy.

Considering the loss of jobs and the economic turmoil created by free trade, the GST, high interest rates and the high Canadian dollar, all of which are policies initiated and supported by business, our faith in business making sound decisions for Ontario's employees is, at the least, sceptical.

This campaign is creating an atmosphere of bitterness and disgust among employees throughout the province like we have never experienced. Their claims that these reforms are only to increase the power of unions and their leaders could not be further from the truth. They should remember that Bob White, Gord Wilson or any other national or international president is not the union; the union is its members, and those leaders are responsible to carry out the wishes and direction of its members.

Business makes statements like, "The act will prevent companies from operating during a strike, while striking workers are free to get other jobs or tax-deductible strike pay."

First, with unemployment running at close to 12%, where do these striking employees find other jobs? Second, strike pay is not tax-deductible. As a matter of fact, most unions do not have strike pay, and the ones that do range from \$25 to \$50 per week. How many of these so-called righteous business people would jump at the chance to earn those kinds of wages?

They have an ad that asks Ontario employees to imagine going to work one day and finding a sign that says: "Closed. Gone to the US." Well, let me enlighten them on something that has passed them by for the last 10 years: Employees of Ontario work under the fear and threat of plants closing and downsizing every day of their lives. These reforms, even if dropped completely, would not change that fact. What these reforms will do is help employees live with that a little easier and give them better representation if they choose, if or when their plant closes.

The Ontario Labour Relations Act is not about investment but about protecting employees' rights and creating just and equitable workplaces. Any employees in Ontario should have the right to choose, without interference or intimidation, whether or not they want to join a union. If business people treated their employees with respect and provided them with a reasonable living and a safe and healthy workplace, they would not have to fear being organized.

We would like to take this opportunity to thank the committee for taking the time to hear our views. We trust that the concerns will receive serious consideration in the final writing of this legislation, which is so very important to our members and to the people of Ontario as a whole.

**The Chair:** Thank you, sir. Ms Witmer, four minutes.

**Mrs Witmer:** Thank you for your presentation and for putting your position on paper for us. Unfortunately, the labour relations reforms, as you know, have created a lot of concern, not only within the boundaries of the province of Ontario but throughout the world. We heard from the last presenters that when a meeting was held in Detroit and American investors were present, they were very fearful of this legislation and obviously weren't going to do their investing in this province but would look elsewhere.

We also heard that now we're looking at different patterns, that people are looking not at establishing a plant in the US and Canada but establishing a plant in only one place.

How can we alleviate the concerns of people who are considering investment in this province? The number one priority for people at the present time is jobs. How can we bring those people back to Ontario?

**Mr James Davidson:** I happen to work for a company which has its head office based in Detroit; I work for General Motors. Quebec has anti-scab legislation; they have, in my view anyway, much more progressive labour legislation in that province than we have in Ontario. General Motors, when it comes to investment, has chosen to invest heavily in the St Thérèse operation, while at the same time turning to Scarborough, which was a profitable business, and deciding to close it. They took the foundry in St Catharines, which was also a profitable venture, and chose to close that operation. Comparing those two provinces, I don't really feel the economic investment these companies are looking at really is impacted as greatly by the labour relations policies in the particular areas as people might want us to believe.

**Mrs Witmer:** Well, these people did indicate their concern. Don't forget, we're talking about new dollar investment in the province. What you've talked about is plants that are already operating. How do you encourage people to invest here? Maybe that's something you want to think about. I think Mrs Cunningham has a question too.

**Mrs Cunningham:** Just on that same point, with the analysis you've just given us, all you have to do is visit Quebec and see what's happening with the exodus of business from that province right now. Actually, the only other province in all of Canada that has that anti-scab legislation is Quebec.

I'd like to also make a point, and I'd like you to remark on this: The new CAW chief was interviewed in Automotive News in July, 1992, and this was his statement: "Hargrove makes it clear that he prefers an adversarial relationship with management, working outside the corporate system." If that's the essence of an interview with somebody in the automotive industry and you read something like that, plus you take a look at the concerns right now—

**Mr Hayes:** Read the whole thing.

**Mrs Cunningham:** I haven't got time to read the whole thing, but I'd be happy to put it on the record, Mr Chairman, because that is the essence of the article, with due respect.

**The Chair:** If you provide a copy of that, it will form an exhibit, because we don't have time to put it on the record now.

**Mrs Cunningham:** No problem. That's the essence of the whole thing. A statement like that: I'd like you to respond because that's why you're here.

**The Chair:** Hurry up and respond because—

**Mr Davidson:** I have no difficulty with responding. In regard to Mr Hargrove, I happen to know the individual personally.



**Mrs Cunningham:** Well, I don't, but I read, and I thought, "Who wants to come to Ontario?"

**Mr Davidson:** In the dealings I've had with him, I have not found the individual, in his dealings with General Motors, Ford, Chrysler or whoever, to be confrontational. He's been very open in his negotiations with these particular parties, and I believe those comments were taken out of context.

**The Chair:** Thank you. We've got to move on to Mr Sutherland.

**Mrs Cunningham:** "We reject the philosophy that workers' wages somehow have to be tied to the success of the corporation." You might want to read it.

**The Chair:** Perhaps Ms Cunningham is suggesting that the research officer write to Mr Hargrove asking him to clarify those—

**Mrs Cunningham:** No, I'm not. I just want you to read what I read. I can write my own letters, thanks, if I have to.

**Mr Sutherland:** I want to thank you for coming forward. I do think the one point that needs to be made, just in response to Ms Cunningham's comments about Mr Hargrove—

**Mrs Cunningham:** Mr Chairman, can we get this clear?

**Mr Sutherland:** Ms Cunningham, you've had your opportunity.

**Mrs Cunningham:** Can we get this clear? I was quoting from a magazine, because I had just read the article, so forget it.

**The Chair:** Go ahead, Mr Sutherland.

**Mr Sutherland:** Thank you. What I was about to say is that the comments that have been read into the record—

**Mrs Cunningham:** You're very sensitive, I might add.

**Mr Sutherland:** In response to those comments, I think it's important to point out that I know Mr Carey here. He works at the Kelsey-Hayes plant in Woodstock, which has received Chrysler's quality award seven years in a row. One of only 14 plants in the entire world that has received—

Interjection.

**The Chair:** One moment, Mr Sutherland. I've said it before: I'm indifferent about how many people talk at the same time, but the poor people from Hansard have to somehow decipher that when it comes time to transcribe it. I'm not concerned about myself, but have some regard for the Hansard people.

**Mr Sutherland:** You've pointed out in your presentation how there are certainly problems out there in terms of organizing drives, some of the labour relations. We've heard a lot that Bill 40 is going to hurt labour relations in the province. I'd like to know from your experience whether you feel that in those plants where good labour relations already exist, Bill 40 is going to have any real impact on labour relations?

2020

**Mr Carey:** Absolutely not. It's going to work towards building better relationships in the plant. It's not going to do any harm. We've had a number of industries around for a long time and a number of unions that have worked in those industries for a long time, and the working relationship that was built was very positive. They were more productive. The people felt secure; they knew they were going to get treated fairly, that they had representation if they got into a problem or difference with the foreman or management. So I think we're on the right track here with these reforms.

**The Chair:** Mr Hayes, briefly, please.

**Mr Hayes:** I found that remark about Mr Hargrove rather interesting. On my previous job, when the plant was down in Oakville one night, that same individual called me up and told me to get my butt down there and get those people back to work.

But my question is really dealing with decertification. There seems to be a myth here that employees are having a very hard time getting decertified from a union if they're not pleased with the representation. I'm wondering if either one of you could elaborate a little on how the process works if employees decide they want to decertify. I believe it's taken care of in a matter of a few months prior to the expiration of a collective agreement.

**Mr Carey:** I'm no expert at that; I haven't been involved in that many drives. But my understanding is that two months before the expiration of the collective agreement, there's an opportunity for the people in that plant to go around and decertify the union and apply to have the union taken out as their representative.

**Mr Hayes:** I could be corrected, but I think it's just a simple majority.

**Mr Carey:** Yes, a simple majority: 50% plus one.

**The Chair:** Mr Hope, 30 seconds, no more.

**Mr Hope:** When you talked about the labour adjustment clause, I wanted to put on thing forward; I don't know if it was an oversight. You made reference to the jobs going to the United States, and I'm wondering if you would be in favour of plant closure justification language in the Employment Standards Act.

**Mr Carey:** We certainly would. It's long overdue. It's only fair that the employees have justification of why their plant's closing and why the community's going to suffer, because the tax dollars and everything are lost. It's long overdue.

**Mr Brown:** I appreciate your coming. I'm looking at the Johnson Controls example you presented in your brief. I would like some elaboration, because I'm not sure I really understand your point. You say that in the first drive, 59% of the people in the plant signed the card.

**Mr Carey:** That's correct.

**Mr Brown:** And after petitions and what not, you ended up with a vote. The vote, I presume, ended up with 49% of the membership voting in favour of the union and 51% opposing it. There's a 10% difference in the vote for the union between the card and the actual secret ballot. I'm

wondering if you could help me understand why there's the 10% difference.

**Mr Carey:** Usually what happens in those cases is that there's a lot of time for the corporation to work on the employees, to intimidate them, to spread innuendoes around the plant that it may close, that they're going to lose their benefits: "If you're not careful, you're going to lose your jobs." It's just a constant fear the employees work under, and when they work under that type of scenario, they aren't free to make a decision. Their economics are clearly threatened with those types of things, and there's so much economic power the corporation has to do that, that it runs them scared. That's why you see a 10% drop.

**Mr Davidson:** If I could elaborate a little further on that, you'll notice that in the second drive there was a 2% decrease from what they signed to what they actually got on the successful drive, which was the second drive. From individuals I talked to, basically they got information after the first drive which dispelled a lot of the misinformation the company had published. That's probably why, although you see a 10% decrease through the first drive, there's only a 2% decrease under the second.

**Mr Brown:** There was no vote, though. I'm just trying to compare the numbers. There was no vote, so we're only comparing the sign-up rate. An explanation could be, at least for some people, that they changed their mind from the time they signed the card.

**Mr Carey:** They changed their mind because of fear and intimidation.

**Mr Brown:** It's a secret ballot, so nobody would know who voted which way, would they? Or am I wrong?

**Mr Carey:** There's a secret ballot vote, but when you're put under the pressure these individuals are put under, then you have a tendency to change your mind because your economic livelihood's threatened, and that's why.

I think it's only right that the cards you sign initially should be the deciding factor. Don't allow the corporation to get in there and sway your decision one way or another. The decision the employee should make should be made without fear.

**Mr Brown:** I take it that an employee should be bound by what he promised to do: He signed the card, so he wanted to be a member.

**Mr Carey:** That's correct.

**Mr Brown:** Following that, a government that's elected should do Sunday shopping and government auto insurance.

**Mr Offer:** Thank you for your presentation. I certainly did like that last comment.

On the amendments with respect to the part-time, full-time situation, you say, "These amendments are an equity issue because they support the rights of part-time employees, many of which are women and visible minorities." I want to talk about that, because I don't believe they do support the right. That's my opinion: The legislation does

not support the rights of part-time workers. I have a very deep concern about this, and let me tell you why.

I want you to assume two units, one part-time and one full-time unit. In the full-time unit there are 55 workers. In the part-time unit there are 45 workers. Under the legislation, if there is an application to combine the part-time with the full-time, and every one of the full-time workers says yes and every one of the part-time says no—every one—they are merged. The legislation says they shall form one unit, even though every part-time worker said no.

That's where my concern is, and that's a reading of the legislation which has been verified.

Interjection.

**Mr Offer:** If you have a question, Mr Sutherland, I'll be more than happy to discuss it with you any time, any place, but I want to get the response from these gentlemen who have come forward in these hearings, because I think their experience is very important.

I would like to hear from you whether you would support an amendment which I believe would support the right of part-time workers, that if there is a combination drive, it requires the majority of each of the units before it's combined, as opposed to the way it is now.

**Mr Carey:** To be honest, I'm no expert in that area; I come from a union that deals more with full-time employees. But I think it's only fair that they should be merged and become one bargaining unit if they're both dealing with the same corporation.

**The Chair:** I want to thank both of you for appearing here this evening on behalf of the Oxford Regional Labour Council. Your views were well presented and form a valuable part of this record. We appreciate your coming here and wish you a safe trip back home. Take care.

2030

JACK COUPS

**The Chair:** The next participant is Jack Coups. While he's coming forward and seating himself, I want to indicate on the record that we've received a written submission from Gord Drimmie of London. I've read the submission. He makes it as a private citizen and he's taken the time to express his views of this legislation. I've instructed the clerk to file it as an exhibit so that it forms a permanent part of this record, and to make copies of it for all the members of the committee so that they can read it, and I'm confident that they will.

I apologize to Mr Drimmie, because he had believed, inaccurately, that he would be able to come here and present his brief. Were the schedule not so tight we would have been pleased to accommodate him. But, as it is, the bookings for these hearings have been so intense that we're unable to do that. We do, however, thank him and we welcome his attendance here throughout the day, and as well, he's welcome to attend tomorrow. We thank him sincerely for his insights and for his contribution to the process.

Thank you, sir, I appreciate it very much, Mr Drimmie, and the committee will be reading it. You're welcome to get in touch with the clerk of the resources development



committee with any other views or with any of the individual members of this committee or the Legislature, of course. Thank you, sir, and thanks to Ms Cunningham for facilitating the delivery of his brief.

Mr Coups, we've got your written submissions. Please tell us about yourself and proceed with your submission.

**Mr Jack Coups:** Mr Kormos, ladies and gentlemen, I'm a little bit overwhelmed by this process. I see some of my colleagues are in the back row here.

I want to make it clear that even though I am employed by University Hospital as VP of human resources I'm here as a private citizen. I do not represent University Hospital in these deliberations. I don't represent anybody other than myself, somebody who's worked in labour-management relations for some 30 years. I'm not a politician, I'm not a lawyer, I'm not a consultant and I don't have an axe to grind. I must say I don't plan on going through the whole details of this very brief presentation. I know you've had a long, trying day.

I am concerned about the economic viability of this province, and I realize that amendments to the Labour Relations Act, if it's been in place for some 20 years, are overdue. I'm not opposed to reasonable amendments to the Labour Relations Act, but when you take a look at all the regulations and legislative requirements that have been placed upon employers in this province and in this country in the last few years, I am concerned about the future of our country, and particularly Ontario with its highly industrialized tax base.

We are experiencing a worldwide recession and we are experiencing worldwide competition for our goods and services. When we make amendments like this and proposals like this, how far can we go? Is there not a limit to costs and government regulations that investors will accept before locating and establishing business in other jurisdictions? The answer is yes, and I think the time is now.

Associates in my profession have told me that their companies are looking very seriously at future expansion and development in this province. We've had an exodus of businesses to the south of the border, and when we take all these legislative changes in context and together, this exodus will continue.

I'm not saying that we not change or amend the Labour Relations Act, but I must say, please use common sense, be responsible and look at areas that must be changed and have to be changed. I do not deny the right, for example, of farm workers to want to organize. If they want to organize, let them organize. I'm concerned about professionals having the right to organize, because we did go through a doctors' strike not too long ago.

The purpose clause: I have dealt with unions for some 30 years, as I said earlier, and in my opinion that is a business relationship.

There are a couple of representatives here tonight of the union I presently deal with. I'm very pleased that they're here, although I'm a little concerned in the sense that they're watching me; they're sitting behind me. I do have their hat here and it's time, but it's time for what? In my opinion, and my opinion alone—I'll let them speak for themselves—it's been a very proper business relationship.

Any changes in legislation are going to create expectations upon the employees and upon the members of the union. I'm very concerned that this will lead into disruption and confrontation. We're not the losers; the public will be the loser.

The right to organize: In 30 years I have never experienced a situation where a group of employees that wanted to organize has not organized under the present legislation. That's their democratic right. As you know, employers are very limited under the present legislation in preventing such an organization.

I'm very concerned with the proposal that organizational activity will take place on third-party premises. I'm just concerned with the social disruption this will create with the public. We do not need more disruption in our lives.

As far as I'm concerned, the Ontario Labour Relations Board has lots of power. Why give it more?

If a company wants to operate during a strike, let it operate. I don't think we have to look at the postal service, that mess, with its labour-management relations. Let's not get ourselves into that situation.

Employees have every right to strike at the present time. Companies should have the right to continue business.

Labour relations is a very sensitive relationship. It's developed over many years of working together. It has to be cooperative. It's something that is not changed with written legislation. I feel in total the changes contained in this proposal will affect the day-to-day working relationship, resulting in labour disputes and confrontation. It has to; it's a political process.

My basic concern, gentlemen and ladies, is that foreign investors, particularly those south of the border and in the Far East, will be alarmed with these proposals, considering that Ontario is a major manufacturing province, plus the other legislation. Why shouldn't they look at the US and perhaps even Mexico?

Last but not least, the grievance arbitration process: We have at the present time a very knowledgeable group of arbitrators. We don't always agree with their decisions, but overall I think their decisions are fair and responsible. With these changes the case law will be reviewed and will be challenged, and I'm afraid that it's going to add additional costs and concerns within the industry.

I'm not opposed to some reform. I am concerned with the potential harm these proposals, coupled with other costs in recent legislative changes, will have upon the economic liability of this province.

That was short and brief.

**Mr Ferguson:** Thank you for taking the opportunity to appear tonight. I appreciate your short, concise and pointed presentation.

**Ms Murdock:** Pithy.

**Mr Ferguson:** Pithy. I have a couple of questions. In February of this year Statistics Canada released the investment report for the nation, and what it indicated pretty clearly was that out of the \$45 billion in investment in Canada in 1991, \$20 billion of that was in Ontario. And

not only that, but they're also indicating that they expect 3% growth this year.

2040

We've heard all these claims that investment is going to dry up, the province of Ontario is going to come to a grinding halt. Nobody mentions the GST, the trade agreement, the value of the Canadian dollar or, until recently, the high interest rate policy. Nobody mentions that, but they say, "By God, if you change a couple of labour laws, everything's going to come to a grinding halt." Quite frankly, how can you say investment isn't happening when Ontario is the beneficiary of almost 40% of the total investment of the country?

**Mr Coups:** I'm not a politician, I'm not a lawyer, I'm not an expert. I'm giving you my impression and concerns as somebody who has worked in labour-management relations for 30 years. I am concerned. You can amend the legislation, but for God's sake, be careful. Take consideration of everything else.

I've made reference to the 2% health tax. That's the feds. I'm not saying it's the province, it's the federal government, it's the municipal government. Hey, we're governed to death. Please be careful; that's all I'm saying. I'm not saying don't amend the act, but please be careful, and let's hope that 3% continues to grow.

**Mr Ferguson:** We've had many business groups appearing before us, as well as trade unionists and individuals, who have said that in the consultation process, despite the 20-plus changes that have taken place from the original document to where we are now—all in favour of business, I might add—we aren't listening. We've been accused of not listening and not hearing them.

I would like to ask you if you would equate the listening and hearing with agreeing. I listen to my two-and-a-half-year-old at home all the time and I hear everything she says, but I can't always agree with what she puts forth.

Interjections.

**Mr Ferguson:** Well, unions are politically driven.

**Mrs Cunningham:** Is that the analogy?

**Mr Coups:** You're just asking for confrontation, and if you want confrontation, then you're going to get it.

**Mr Ferguson:** We've heard from a number of groups that it doesn't matter. One group in particular, one of the chambers of commerce, says: "Look, whether it's good or bad"—this is what the representative said to the TV news that interviewed him—"doesn't matter any more. It's the perception, and the perception out there is that it won't be healthy for Ontario if we proceed with these changes."

That's their perception. It doesn't matter if it's good, it doesn't matter if it's bad, it doesn't matter what the changes are. The perception is that we're reforming the law and the perception is that it's not healthy.

Now, of course, this government didn't put forth that perception. That is a perception that has been put forth by some, but not all, individuals in the business community, however irresponsible and misleading some of the suggestions might be. Could you tell me whether you feel that those in the business community, if they think there is a

perception problem, whether it's true or not, should have a responsibility to clear up the misconception that some people might have about this legislation?

**Mr Coups:** I think it's a combination of all the legislative changes, of all the costs that have been put on companies, on potential investors. That's what I am concerned about.

I want to make it very clear that I am not opposed to some of the changes you are proposing—it has to be looked at—but I am opposed to the cumulative effect that this will have with everything else: pay equity, employment equity, changes in the Employment Standards Act, the workplace hazardous materials information system. It goes on and on. It's an additional cost for the employer, that's all. You guys can do what you want, and you will do what you want.

**Mr Ferguson:** I guess I have some difficulty with this because we had Joe Colasanti up here yesterday. It was an effective presentation. He is a small business owner who has about 85 employees: 50 full-time, 35 part-time. I talked to him after the meeting and what he honestly believed is that the day this legislation passes, his workplace automatically becomes unionized. His employees don't have a choice and he doesn't have a choice. That's the kind of myth and propaganda that has been dropped, irresponsibly, on the Ontario public by some in sections of the business community; not all, but there are some irresponsible individuals out there. I guess it bothers me that they drop that misinformation out there and people start eating it up and it raises fear and concerns.

**Mr Coups:** I can't speak for everybody.

**The Chair:** Mr Hayes, did you have a 30-second matter?

**Mr Hayes:** Yes. Very quickly. I notice, Mr Coups, in your presentation you say you don't disagree with making the changes.

**Mr Coups:** Some changes.

**Mr Hayes:** However, you are concerned about the changes at this time because of the serious economic situation this province is in. Well, I can tell you that in 1985, when we drew up the accord with the Liberal government, at that time we indicated we'd like to have some of this legislation. I guess it was the wrong time then. I think those were fairly good times, and the previous government didn't do it before. When would you suggest would be a good time to give the workers some of these needed rights in this province?

**Mr Coups:** I don't know your name, sir.

**Mr Hayes:** My name is Pat Hayes. I'm the MPP for Essex county.

**Mr Coups:** Okay. I have to state I'm still not totally opposed to changes. I think that after 20 years the legislation has to be and should be looked at. I'm just concerned about the cumulative effect of these changes with everything else. Give us a break. Gosh, does everything have to be done today? I don't think it has to. The cumulative effect is all I'm concerned about, Pat. It doesn't affect me personally, because I think I have the relationship.



**Mr Hayes:** I don't know of anywhere in this legislation where there's going to be any financial burden put on any business.

**Mr Coups:** You don't think strikes are a financial burden on the participants and the public?

**Mr Hayes:** Well, you don't have to go on strike if people start working together and start looking at one another's concerns.

**Mr Coups:** Yes, there are two sides. Right, Pat.

**Mr Offer:** Thank you very much for your presentation. I must say that as I was listening I said: "My goodness, this is a very reasoned, thoughtful presentation on some areas where you have some concern. I don't know that it should foment such an incredible onslaught from the government members."

**Mr Coups:** Of attack.

**Mr Offer:** My goodness, gracious. It was just—

**Mr Ferguson:** We saw you sleeping over there and wanted to wake you up.

**Mr Offer:** I see. Somebody said they just did that to make certain that I was listening. I can assure you that I was listening. I was quite concerned that this was their reaction to this type of presentation.

I would like to indicate, and I listened closely to the questions by Mr Ferguson and Mr Hayes, I think it's important to know that the concerns on the legislation are not just from the so-called business community. We've heard some concerns on aspects of the legislation from the Ontario Association of Children's Aid Societies—they have a concern with the legislation; schools boards have concerns with the legislation; municipalities have concerns with aspects of the legislation; Hydro has concerns with some aspects of the legislation, and we heard a presentation today from the hospital association and it has some concerns about the legislation. I hope the government and government members listen not only to your concerns but also to these other concerns. I believe they are matters which really must be addressed.

I certainly do appreciate your bringing forward your concern on the purpose clause. I have been bringing up this matter as well as others on this committee as to what this actually means. I have a concern specifically that one of the areas in the purpose clause says not only will it encourage the process of collective bargaining—I think that a lot of people would agree; you know, you want to do whatever is necessary—but it talks about the ability of employees to negotiate with their employer for the purposes of improving their terms and conditions of employment.

There have been some very strong concerns that this is taking away some of the purposes of collective bargaining and what that means to the board. I have a question in to the ministry, which I know it is going to be responding to very shortly. I believe that this aspect of the purpose clause, together with the expanded powers of the arbitrator, will permit an argument to be made to the board under this new legislation that the financial statements of the

employer must be disclosed. I would like to get your thoughts on some of the concerns.

2050

**Mr Coups:** That's a possible repercussion, I suppose, Steven. Personally, my experience is that we've tried to be very open and honest with our employees in the negotiating process, but I could see that could present a real potential problem, particularly with new bargaining agents and new relationships.

I am talking from a very mature relationship. I've been fortunate in my years to experience that, and it's been conducted on a very businesslike basis. Things just don't constantly get better and better. Sometimes we have to retract, we have to draw back, like we're doing right now. Who thought a year ago there would be layoffs in hospitals? We've been devastated in hospitals in the last year and it's going to be tough for the next few years. We cannot keep giving and giving. This is a major problem. I can see the potential problems.

**Mr Offer:** I have a short comment. When you talk about the purpose clause, a lot of comments are made by many about a playing field being level. I've always had this concern that when people use the term, "a level playing field," it doesn't necessarily mean an equal playing field. The thing I'm most concerned about is that a playing field, without doubt, implies teams on it: one, two, three or four. I would hope maybe what we should get away from is this connotation of a playing field, this connotation of conflict, this connotation of one against the other, but rather everyone working together. That's just a comment of mine, and Mr Brown has a question.

**Mr Coups:** Do you want me to respond to that one?

**Mr Offer:** It was just something I had to say.

**The Chair:** Save a little bit of time for Mrs Witmer. Go ahead, sir.

**Mr Offer:** No, he didn't have to comment.

**The Chair:** It was a soliloquy, not a question.

**Mr Coups:** I wish I was a lawyer.

**Mr Brown:** This is not really a question. You being the last presenter of the day, perhaps we're getting a little punchy.

One of the things that strikes me is that there used to be something—I guess at some universities there still is—called the study of political economy, noting that politics and the economy are closely related. I think you make some points here that tell us that what happens in the political field, what laws we make, affect the economy very closely, and governments have the responsibility to judge what effect their legislation has on the general economy.

All I'm really trying to determine here is that I can't get the government to tell us what effect it seems to think this legislation will have on the economy. Just a comment, no question.

**Mr Coups:** I guess, Mr Chair, I'm just talking from 30 years of experience as a private citizen and expressing my concerns. Be careful, that's all.

**Mrs Witmer:** Thank you very much, Mr Coups, for your presentation. I think you are to be commended for coming forward as a private individual and bringing your 30 years of experience in the labour relations field to us this evening.

You mention on the last page that labour relations are a very sensitive relationship developed over years of working together, and any changes obviously affect that relationship. I would agree with you. One of the concerns I have had about the legislation is the process the government has used to arrive at the changes in Bill 40. The process used seems to have created this uncertain economic climate and this polarization, and unfortunately we find ourselves in here sometimes listening to two very different opposing points of view. I guess my concern is that although Bill 40 is intended to bring the partners together and increase cooperation, I'm not sure, because of the process that's been used, that that will indeed happen. I don't think you can force or legislate people to cooperate.

**Mr Coups:** No legislation will accomplish that. It has to be a day-to-day working relationship. You can have all the words and all the language in the world, but you're not going to get cooperation unless the people are prepared to cooperate.

**Mrs Witmer:** I think we both agree changes certainly are necessary. How could these changes have been made while still maintaining that cooperative, harmonious relationship?

**Mr Coups:** Oh, God. That's a very difficult question to answer, Elizabeth. I guess it's just the local people, the people in the local plant and the office and what have you, sitting down and discussing and trying to resolve their problems face to face.

I think we have too much government interference at the present time. If we're going to encourage cooperation, let's do it at the local level, at the grass roots, and through training and education. If you're going to be successful, I think that's where you have to be successful: Educate, train, encourage and support people to get together to discuss their problems.

**Mrs Cunningham:** On the issue of process, you should know, Mr Coups, and the Chairman can correct me, there were, I think, probably more than 1,200 applications to appear before this committee that we have not been able to hear. There's tremendous concern.

You should also know that the guidelines for the committee were to balance union, somebody else, union, somebody else. We also know, in the work I've done, that most of the people who were not able to attend were not representing unions. Whether we like it or not, those are the facts.

I'd just like to add to what Mr Ferguson said. He was talking about the billions of dollars of investment in Ontario. My concern, on behalf of my constituents, is simply this: In Ontario in the month of July we lost 23,000 more jobs. The jobless rate right now is at 11%. If you talk about spending, and this is what the government was able to spend, we've had the lowest increase in spending, some

4.9%, in the province since 1953. If you take away welfare—

[Laughter]

**Mrs Cunningham:** I don't know why you're laughing. You think you're doing your best with regard to spending, but it's going to get worse because the Treasurer has just said to the cabinet ministers, "Cut your budgets even more." These are tough times. If you don't talk about public debt, which is increasing significantly because the deficit this year is \$9.9 billion with this government, spending is only 1.5%, so we're in deep trouble in Ontario.

The biggest problem I have in my constituency office is people who come to me because they don't have jobs. I have to listen to people who come into my office. I have to tell you I'm glad you're here.

**The Chair:** Did you want to reply to that, Mr Coups? We've run out of time.

**Mrs Cunningham:** When you said, "In my opinion, this will continue"—that is, that companies will no longer invest in Ontario—I'm glad you came tonight, because that's what I hear from my constituents, whether these people like it or not.

**The Chair:** Mr Coups, I want to thank you on behalf of the committee for your interest in the matter and for appearing here. You've engaged the members of the committee in a lively dialogue. The whole committee is grateful to you.

**Mr Coups:** It was quite an experience. Thank you.

**The Chair:** There are a couple of matters to deal with before the committee retires. First, I want to thank the members of the committee for their cooperation with me during the course of today. I want to thank the people who attended these hearings by way of being participants or observers and the people who showed interest in what's taking place and their eagerness to sit here, as they have, in the spectators' area.

2100

I want to thank the staff people, including of course Pat Girouard, who's our Hansard person; Anne Anderson, who's our legislative research officer; Rocco Rampino and Mike Sorbara, who assist Hansard in controlling the electronics and do a very skilful job in view of the fact that people are often inclined to speak simultaneously; and of course the clerk, Todd Decker, who is assisted by David Augustyn, a co-op student from the University of Waterloo who happens to live on Port Robinson West in Thorold and who has done an exemplary job of assisting the clerk. I sincerely want to thank those people on my own behalf and on behalf of the committee. They perform an outstanding job and make this whole process work.

**Mr Hope:** Mr Kormos, one of the presentations that was put forward today made reference to a news article and a study that was given. I'm trying to reflect back to that study, because I think I remember reading it.

I'm wondering if you're looking for the whole study or if you're looking only for the specific points that were raised in that news article. If you're only going to look for the specifics in that news article, I would ask that legislative



research also scan through that report, which also indicates management's lack of knowledge of labour issues and labour relations, because I believe it was also reported in that study. We've seen so many studies. If you're looking for the whole study, then I would like to see the whole thing.

**The Chair:** Ms Anderson is going to exhaust all the avenues in obtaining as much as she possibly can and delivering it to the members of the committee so they can draw their own inferences.

**Mrs Cunningham:** I think I already asked, with regard to that American study—

**Ms Murdock:** The Carnegie?

**Mrs Cunningham:** Yes, the Carnegie one.

**The Chair:** Yes.

**Mrs Cunningham:** Was it referred to there as well?

**Ms Murdock:** It's the same one.

**Mrs Cunningham:** Oh, the Carnegie one?

**Ms Murdock:** Yes.

**Mr Hope:** I didn't know if you were looking for specifics or if you were getting the whole study.

**Mrs Cunningham:** I have a specific question with regard to that. If we've actually been told that productivity has increased, I would like to see that also supported in some other way than just one study—none of us is living with one study—because Mr Hope certainly doesn't like the studies he hears from the other side of the argument.

I think there must be some in the legislative library. There must be that topic about the increased work that can be accomplished by workers, either in unionized workplaces or in non-unionized. I'd like that question answered as far as possible.

But, Mr Kormos, I think it's irrelevant. It was an American study, and I have to tell you that there's been nothing but decline in the numbers of unionized workers in the last decade, so how—

Interjection.

**Mrs Cunningham:** They haven't learned anything from it, have they?

**The Chair:** Ms Anderson is going to find whatever she can and, again, members of the committee will be able to draw their own inferences.

**Mr Hope:** Mr Kormos, sir.

**The Chair:** Just one moment. Mr Brown.

**Mr Brown:** On another matter, I have an inquiry that I would like to make to the ministry.

**The Chair:** One moment. Was your matter, Mr Hope, further to Ms Cunningham's, or was it something different?

**Mr Hope:** No, I have something different which I'll relate later, but this one deals directly with Ms Cunningham's comments, as it has no relevance to this part of it.

As a matter of fact, there were companies before us today that made reference to US corporations and boardrooms, so it does display relevance.

**Mr Brown:** Mr Chair, I have an inquiry of the ministry. I wonder if the ministry could, at some stage in the near future, give us some information regarding the arbitrations. This bill seems to be indicating an increasing number of arbitrations by the labour relations board. I would like to know what the projected costs are for that portion of the bill, what the labour relations board anticipates will be the increased costs for arbitration.

**The Chair:** Thank you. That's been noted.

**Mr Ferguson:** I have a question for research. Perhaps they could determine for the committee what consultation process was used for the Canada-US free trade agreement, as well as the North American free trade agreement.

**Mr Offer:** Good.

**Mr Ferguson:** How many people were consulted on that in a public, open process?

**Mrs Witmer:** A very good question.

**Mrs Cunningham:** Especially the last one.

**Mr Ferguson:** I would also like research to determine for this—

**The Chair:** One moment, Mr Ferguson. She's recording that.

**Ms Murdock:** She's writing. Give her a chance.

**The Chair:** Give her five seconds, please.

**Mr Brown:** I could maybe help Mr Ferguson—

**The Chair:** Go ahead, Mr Ferguson.

**Mr Ferguson:** I would also like research to determine for this committee what impact studies the federal Conservative government undertook prior to the implementation of the Canada-US free trade agreement or the North American free trade agreement.

**Mr Hope:** Mr Kormos, through you to the legislative research, in the committees yesterday and today there were a number of references made to plant closures. Is it possible that that information being talked about can be brought forward under plant closures? I would ask legislative research if it would be possible to access a copy of that.

**The Chair:** If there are reports by the Ministry of Labour, legislative research will attempt to compile those and make those available to you.

**Mr Hope:** I ask for legislative research to get it because if I asked the Ministry of Labour to get it, they'd think we doctored the notes up. I know if it comes through research it's a non-partisan point of view.

**The Chair:** The Ministry of Labour will of course assist research in that.

**Mr Brown:** Just on that point, Mr Chair: There's no suggestion that the Ministry of Labour would ever doctor anything up. These are public reports given to the public. I think all members can probably get copies of these things.

**The Chair:** We've noted that.

**Mr Offer:** This might be totally out of order. With respect to Mr Ferguson's request, I think it's extremely important, and I don't know if there could be any priority placed on these requests. I don't want to say that one is more important than the other. I think that's very important

information that would be extremely helpful. I would ask, if it's in order, that we could get that type of information.

**Mr Hayes:** Mr Chair, I notice Mr Offer is very interested in this and I know that you already have a lot of work to do, but I was going to request that there also be a study on deregulation in the transportation industry, which the previous government supported very strongly, and on how many jobs were lost as a result of that particular piece of legislation.

**The Chair:** Thank you. That's been noted. Are there any other matters?

**Ms Murdock:** No, none.

**The Chair:** Thank you. We will be meeting again tomorrow at 10 o'clock. We'll be meeting through till 4:30. Members of the public of course are invited and indeed encouraged to attend.

The committee adjourned at 2108.





CONTENTS ( *continued from overleaf* )

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**Also taking part / Autres participants et participantes:**

Dadamo, George (Windsor-Sandwich ND)

Lessard, Wayne (Windsor-Walkerville ND)

\*In attendance / présents

**Clerk pro tem / Greffier par intérim:** Decker, Todd

**Staff / Personnel:**

Anderson, Anne, research officer, Legislative Research Service



## CONTENTS

Wednesday 19 August 1992

<b>Labour Relations and Employment Statute Law Amendment Act, 1992, Bill 40</b> . . . . .	R-631
<b>Ontario Hospital Association</b> . . . . .	R-631
James N. Bartlet, chair, human resources committee	
Brian Siegner, vice-president, hospital employee relations services	
Paul LeMay, managing director, hospital employee relations services	
<b>Steven Langdon</b> . . . . .	R-634
<b>Windsor Restaurant Association</b> . . . . .	R-638
Jim Evans, director	
Tom Racovitis, director and vice-chair, municipal government affairs	
<b>United Steelworkers of America, southwestern Ontario area council</b> . . . . .	R-643
Steve Banks, servicing staff representative	
<b>Sarnia Lambton Chamber of Commerce</b> . . . . .	R-646
Gerry McCarthy, general manager	
<b>Simcoe and District Labour Council</b> . . . . .	R-650
Peter Leibovitch, president	
<b>Form and Build Management Inc</b> . . . . .	R-654
Bill Ross, businessman	
Garry Turner, businessman	
Gerald Slemko, businessman	
<b>Sarnia and District Labour Council</b> . . . . .	R-659
Ken Glassco, president	
Ed Nelson, board member	
<b>United Steelworkers of America, Niagara Peninsula area council</b> . . . . .	R-665
David McIntosh, volunteer organizer	
<b>London and District Service Workers Union, Local 220</b> . . . . .	R-669
Lin Whittaker, vice-president	
Liza Timmers, member	
Kirstn Bradley, union organizer	
<b>Canadian Chemical Producers' Association</b> . . . . .	R-674
Gordon N. Catterson, chairman, Ontario labour relations issue group	
David W. Goffin, vice-president, business development	
<b>Oxford Regional Labour Council</b> . . . . .	R-678
Broderick Carey, president	
James Davidson, board member	
<b>Jack Coups</b> . . . . .	R-683

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**\*Chair / Président:** Kormos, Peter (Welland-Thorold ND)

**\*Vice-Chair / Vice-Président:** Huget, Bob (Sarnia ND)

Conway, Sean G. (Renfrew North/-Nord L)

Dadamo, George (Windsor-Sandwich ND)

Jordan, Leo (Lanark-Renfrew PC)

Klopp, Paul (Huron ND)

McGuinty, Dalton (Ottawa South/-Sud L)

**\*Murdock, Sharon (Sudbury ND)**

**\*Offer, Steven (Mississauga North/-Nord L)**

Turnbull, David (York Mills PC)

Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgianne ND)

Wood, Len (Cochrane North/-Nord ND)

### **Substitutions / Membres remplaçants:**

**\*Brown, Michael A. (Algoma-Manitoulin L)** for Mr McGuinty

**\*Cunningham, Dianne (London North/-Nord PC)** for Mr Jordan

**\*Ferguson, Will (Kitchener ND)** for Mr Dadamo

**\*Hayes, Pat (Essex-Kent ND)** for Mr Klopp

**\*Hope, Randy R. (Chatham-Kent ND)** for Mr Wood

**\*Phillips, Gerry (Scarborough-Agincourt L)** for Mr Conway

**\*Tilson, David (Dufferin-Peel PC)** for Mr Jordan

**\*Ward, Brad (Brantford ND)** for Mr Waters

*Continued overleaf*



R-25

R-25

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## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Thursday 20 August 1992

### Standing committee on resources development

Labour Relations and  
Employment Statute Law  
Amendment Act, 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Jeudi 20 août 1992

### Comité permanent du développement des ressources

Loi de 1992 modifiant des lois  
en ce qui a trait aux relations  
de travail et à l'emploi



Chair: Peter Kormos  
Clerk pro tem: Todd Decker

Président : Peter Kormos  
Greffier par intérim : Todd Decker

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### **Table of Contents**

Table of Contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

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### **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday 20 August 1992

The committee met at 1000 in the Sheraton Armouries Hotel, London.

### LABOUR RELATIONS AND EMPLOYMENT STATUTE LAW AMENDMENT ACT, 1992 LOI DE 1992 MODIFIANT DES LOIS EN CE QUI A TRAIT AUX RELATIONS DE TRAVAIL ET À L'EMPLOI

Consideration of Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment / Loi modifiant certaines lois en ce qui a trait à la négociation collective et à l'emploi.

### LONDON AND DISTRICT CONSTRUCTION ASSOCIATION

**The Chair (Mr Peter Kormos):** It's 10 am and we are ready to resume these hearings. The first participant is London and District Construction Association. People, tell us your names and titles, if any. We've received your written submissions, which will form an exhibit and part of the record. Tell us what you will and please try to keep the last half of the half-hour for exchanges. Go ahead.

**Mr Ken Romanuk:** My name is Ken Romanuk and I have my own business.

**Mr Tom Dool:** My name is Tom Dool. I am the general manager of the London and District Construction Association.

**Mr Romanuk:** I'd like to start by going through our written submission.

My name is Ken Romanuk and I am president of Romanuk Design-Build, past chairman of various chamber of commerce committees, past chairman of COCA, the Council of Ontario Construction Associations, and past chairman of the London and District Construction Association. I'm happily married and I have three sons. I've coached soccer, baseball, football and basketball.

I just want to make sure you're listening.

**The Chair:** I'm listening to everything you have to say. I've read it already. Go ahead.

**Mr Romanuk:** Good. I was an employee for 14 years and I have been an employer for the past 15 years. I'm a citizen of London, Ontario, Canada. My first job out of school was here and I chose to live in London.

I have had opportunities to present the construction industry's views to various government committees in the past, and on behalf of the LDCA, we welcome this opportunity to speak directly to this committee looking at Bill 40.

I want to tell you what's happening here and now in London, Ontario.

The majority of jobs out for tender now and in the recent past—and the recent past goes back a year and a half—have been government-funded projects. On a week-in,

week-out basis, "the majority of jobs" means that 80% to 100% of the work we're tendering is government work.

Private enterprise is not expanding. The sluggish world economy, the horrendous paper burden imposed by all levels of government, the presence of a socialist provincial government and the presence of Bill 40 in its present and previous forms are causing businesses not to expand and build new facilities.

My business for the past nine years has been building commercial and industrial buildings. My firm employed an average of 14 people for 14 years. Our slogan was, "We build business." Today I have one employee, because businesses are not building.

COCA has done studies. The first Ernst and Young survey was based on the original proposal, called the Burkett report. It showed that up to 430,000 jobs would be lost if the report were implemented and \$12 billion in investment would be lost. A second survey by the same firm was done after revisions were made to the Burkett report. This survey, from a different group of companies, indicated that the revised proposals would still cost Ontario 295,000 jobs and \$8.8 billion in investment.

The NDP has said that the numbers are wrong, but it has not done its own survey. If they have done a survey, the results are not available.

COCA did further studies. I want to point out highlights of the Environics survey.

There is a high awareness and low support of what's being proposed in front of us. Most Ontarians, 55%, say they are aware of the Rae government's new labour legislation. Of these, 54% oppose it directly and only 32% support it.

**Job loss:** When it is revealed that the NDP's legislation would give greater power to labour unions to organize and shut down employers' operations during a strike, a majority of all respondents, 66%—including even NDP supporters, 50%, and union members, 59%—believe the legislation will cause jobs to be lost in Ontario.

**Economic impact studies needed:** An overwhelming majority of Ontarians, 78%—including NDP supporters, 70%, and union members, 73%—believe the government should be doing more to investigate whether the proposed legislation will result in job losses.

**Good for union leaders,** bad for Ontario: A majority of Ontarians see that the legislation is biased towards union leaders. A majority of those aware of the legislation believe it would be good for union leaders, 66%, and workers, only 50%, but they also believe it would be bad for business owners, 66%, and for Ontario as a whole, 52%, while 60% of those aware of the legislation believe that the Rae government cares more about union leaders than it does about workers' jobs.



Rules changes opposed: A majority of all Ontarians, 67%, whether aware of the new labour legislation or not, believe that this is a bad time to change the rules of the Legislature to limit opposition parties' ability to delay the passage of legislation.

Joining a union: As to the ultimate goal of Bill 40, an overwhelming majority, 73%, of Ontarians who are not now unionized have no interest in joining a union. If given the opportunity, 59% of union members' families would not join a union.

Bad timing: Finally, the vast majority of Ontarians, 68%, believe that this is not the time to introduce new labour legislation. Even NDP supporters, 53%, and union members, 62%, believe that the legislation either should await better economic times or does not need to be introduced at all.

We are the largest industry in the province, and our unemployment rate is now over 22%. I wonder how many employees have given up looking altogether. We depend on investment for jobs. Investments are being driven out of or away from Ontario. Private money is needed to drive the economy. Tax money will not, in the long run, do it. As we lose businesses and jobs, the government loses taxes. It's a downward spiral.

Please talk to the industry now, before Bill 40 becomes law. Please look at the economic impact of this bill. Commission your own study that could be undertaken concurrently with these hearings. Please get the facts before writing your report. Use this opportunity to start restoring Ontario's image as a good place to invest and create jobs. Use this opportunity to tell your constituents that, as their members of the Legislature, you care about protecting jobs as much as they do.

In closing, gentlemen, there are two further comments I want to make. One is a quote from Abraham Lincoln that I think is fantastic. He said:

"You cannot bring about prosperity by discouraging thrift. You cannot strengthen the weak by weakening the strong. You cannot help the wage earner by pulling down the wage payer. You cannot help the poor by destroying the rich. You cannot establish sound security on borrowed money. You cannot keep out of trouble by spending more than you earn. You cannot build character and courage by taking away man's initiative and independence. You cannot help men permanently by doing for them what they could and should do for themselves."

Finally, in today's Free Press, an article sums up my feelings pretty well. Mr Tym Coda, a resident of London, a Canadian of Ukrainian background, a man who had spent three and a half years in German prisons and concentration camps, had a fight with government. He sums up his dealings with these words:

"I tell people that I suffered under Russian Communist socialism, I suffered under German National Socialism and now I suffer under Ontario democratic socialism. If you opposed the Russians or Nazis, they would destroy you. Here they are more humane; they don't destroy you but they ignore you and tell you to go to hell."

**The Chair:** Mr Offer, Mr Phillips and Mr Brown.

**Mr Gerry Phillips (Scarborough-Agincourt):** I appreciate your presentation. The latest unemployment numbers in the construction industry are very discouraging. I think you're probably aware that in July, which historically is the upturn, we see another 40,000 fewer people working in construction in July of this year over July of last year, so the recession continues in your industry, and I feel badly for it.

What's the construction association's view, or your own view, on why the government is proceeding with this legislation? What would you perceive to be the rationale for it?

**Mr Romanuk:** My personal opinion is that I believe there's a conflict of interest with the NDP government and this legislation. What I perceive and what I know is that the NDP receives most of its support from the big unions. Are they losing ground? They're losing their funding, their basis of support. I think this makes it easier for unions to organize small business to increase their money base. That's what my feeling is.

**Mr Dool:** A few years ago, at the OFL annual meeting, they came up with a wish list. I think all of you are aware of that wish list. You're seeing it in front of you. It's called Bill 40. It's been tempered a little bit, but there it is. You can go back two years. Maybe some of you were actually at that convention and recall some of the items that were the goals, if you will, of the Ontario Federation of Labour. Indeed, you're looking at it. It's somewhat tempered, I admit, but in fact that's what it is.

1010

A lot of the pundits have said that this is simply a payback to the supporters of the NDP for their tireless support of the NDP over the last 20 or 25 years. What other choice is there to make? The government has said to us that this is an effort to balance labour relations in Ontario. If you take a look at some of the things, there's no balance there. You're going to create confrontation. If you get into the technicalities of it, you have no choice but to come up with the conclusion that there's no balance here; there's a bias.

But that's not our concern here. Our concern is investment dollars. We live and die on investment. The more nails you pound into the investment community and turn it away from Ontario, the more unemployment we have and the more company failures we're going to have. And nobody's listening.

**Mr Steven Offer (Mississauga North):** May I ask a question? Mr Phillips will hopefully get in another question, but I want to ask a very quick question with respect to the impact studies. You know that's a matter that really has dogged this legislation from the very beginning.

There have been two private sector studies conducted. My recollection of those studies is that the first was done based on the cabinet submission proposals and the second was done based on the consultation document proposals. I believe COCA was a leader in this area. Are you aware whether the private sector is conducting an economic statement based on the actual proposals in Bill 40?

**Mr Dool:** It's ongoing; I can't tell you when it'll be produced. That's all I can tell you at this point. I can tell

you, though, given the retractions, if you will, from the original cabinet document and the furthering of public knowledge of the information that was coming out at the time in the original public consultations, the numbers went from I think 430,000 jobs to 295,000 jobs, and something in the order of \$21 billion of lost investment to \$8.8 billion. I can almost assure you that those have not become plus numbers. If it's \$100,000 or \$20,000 or \$25,000 of lost jobs or \$1 billion of lost investment, it's too much. That I can tell you.

**Mr Phillips:** The Labour Relations Act amendments are an attempt to improve the process. I know overall you're against the proposals, but are there some elements that will assist the management side in carrying out its collective negotiations? Can you see anything in the proposals that represents a step forward for the management side?

**Mr Dool:** I think the legislation basically directs itself not to labour-management relations but more towards the certification aspect of things: the beginning of entry of the union as a separate entity into labour-management relations. I don't myself think there are any, but I admit I'm biased.

**Mr Phillips:** I couldn't find any, but I thought you might have.

**Mrs Elizabeth Witmer (Waterloo North):** Thank you very much for your presentation. Unfortunately, I think it highlights the impact of Bill 40, the very uncertain economic climate that's been created in this province because of the process the government has used to introduce legislation to facilitate unionization.

Certainly, in talking to people throughout the province, we are hearing that investment is not taking place. We heard yesterday from the chemical producers about the meeting in Detroit, where the Americans had indicated, because of the replacement worker section in particular, we had created a barrier around Ontario, and they simply were not prepared to invest here.

Last week I heard from two people in the Waterloo-Cambridge-Kitchener community that they were not expanding their business because of the uncertainty, and that means a loss of approximately 350 jobs in my community. Obviously if these people were investing, there would be jobs for people such as yourself in the construction industry. So it certainly is a fact that Bill 40 is not encouraging new investment in the province.

You say you have reduced your numbers, Mr Romanuk, to one employee from 14. What are the other 13 doing at the present time?

**Mr Romanuk:** I know two of them are working for other firms. Four of them have started their own businesses. They couldn't find other jobs, so they're out working on their own. I don't know what happened to all of the rest of them.

**Mrs Witmer:** What would be the total impact on the construction industry in the London community? How many companies have gone bankrupt? How many workers would have lost their jobs over the last few years because of no new building initiatives?

**Mr Romanuk:** My guess would be that today, of 500 firms that belong to our association, I would be willing to bet 80% of those firms are now into their retained earnings. I

would say by the end of the year or the start of 1993, 20% or 25% of our member firms will no longer be member firms.

**Mrs Witmer:** That's not unlike what's happening across the province. What would you say to this government concerning Bill 40? What must it do in order to encourage job creation and new investment in this province? What can it do with Bill 40?

**Mr Romanuk:** I'd really love to tell you, but we're being recorded. I think they should start all over again. They should stop at this particular time. They should do an impact study. They should go out and find out what's happening. From everything I've seen, they've not done it. If they've done it, they're probably embarrassed with the results and won't tell us. I don't know.

Our studies, and through COCA, are telling us that it's not good. I think if they're going to make some changes, make changes, and make them both ways. One part they've never touched and no one ever seems to bring up in the Labour Relations Act is one clause that I think should be struck from it. It's not part of Bill 40. It's the clause that says if you are an employer, you own a company and you become certified, if you go bankrupt or for whatever reason you change jobs, you're always going to have to have a union company. You can never start non-union. Whereas a union employee, if he works for a union and gets laid off, can turn around and work non-union at less wages or whatever. It's not a two-edged sword; it's all one way.

**Mrs Witmer:** There's not a balance.

**Mr Romanuk:** I think it should be completely redone if you're going to redo it, but talk to somebody about it. Talk to the other side. Don't talk to three or four people. Talk to industries.

**Mrs Witmer:** I guess that's what we're hearing. I know the small business community has been telling us that it feels it has been totally ignored in the discussions. It appears we have a bill that is attempting to meet the needs of all people across the province, and the government, unfortunately, hasn't taken a look at the tourism industry, the construction industry, the small business person, to really see how this bill is going to impact. We're hearing over and over again about the very negative impact the bill will have.

**Mr Romanuk:** I think it's very negative. I tend to have a hard time in my situation differentiating between me, the employer, on one end of a deck, hammering, and my employee at the other end. I think we should have the same rules. I don't think it's fair.

**Mr Dool:** If I may, Mr Chairman, just to go beyond that, I think you're going to find as you go through the province that the speakers, the people who are making the presentations, are not anti-union here. We've worked with unions for 15 years and we've gotten along well with them. They're doing a fine job.

In the past, the two parties have sat down and discussed legislation changes and have thrown out those things which are drastic and can't possibly be agreed to; those things they agreed to automatically went into legislation. You people basically discuss it and everybody's



happy and away she goes. But aren't you finding, Mr Chairman, that the opposition to this is probably outstanding, if you will, as compared to that in the past? Because there has been no cooperation, there have been no real bipartite discussions.

1020

We've asked for impact studies of the government; the government has not provided them. Why not? Are they afraid of what it's going to produce? We're not. If they come out great, we'll live with them. But we have seen nothing, so we did it ourselves because we're a little concerned. Right? As we got into the results of those surveys we became more and more concerned, and that's why we're sitting here today. There's no need for us to sit here today. Labour Relations Act changes have occurred twice in the last year and they've gone through lickety-split simply because both parties were consulted properly and the legislation was agreed upon.

**The Chair:** Thank you. Mr Hope and Mr Winner.

**Mr Randy R. Hope (Chatham-Kent):** First of all, it says "six-county area," and I'm just wondering for my own information what areas those are, the counties that you represent.

**Mr Romanuk:** Basically from here to Owen Sound.

**Mr Hope:** Which is from here upward.

**Mr Romanuk:** Yes, and Elgin.

**Mr Hope:** You talk about the reduction in jobs, and I'm looking in my own area, the Chatham area, and I know a number of London firms have contracts in Chatham. As a matter of fact, they built our police station there and they're working on another construction job of private enterprise.

When I look at what you're saying in your presentation, I know you kept specifically to the survey that was done and you talk very little about your workplace and the impacts this would have, so I want to try to put this in a little bit of a context. You said most of your projects are government-funded—that could be municipal, federal or provincial—but when I look at this I'm saying, "Well, what's happening in my area, the impacts that I've seen?"

I have a number of investors I'm working with right now to put in my own location. They're not looking to build, because there's a surplus of buildings available, and most of those buildings became available because we are parts manufacturers and we've been affected by the free trade agreement, which is called free enterprise. They're saying, "Why should we build when you have the vacant ones?" The municipal government's not trying to build anything. They're trying to use up the vacant buildings we currently have.

Then I look at my retail sector and walk down my main street in Chatham and there are empty buildings all over. Naturally there's not going to be any construction, because the major role of the municipalities is to try to get those buildings filled.

I see you make reference a lot to the stuff of the studies but very little to the specifics of the economics that are currently facing us. Isn't it true there is a surplus in buildings available right now because of an impact that was

done to a lot of our municipalities after 1988? Wouldn't it make more sense that most of your projects will only come from government-funded projects, which are going to be less as government faces restraints?

That's why I'm having a hard time. You never talk specifically about your own workplace. I heard you just make mention of 14 years of good labour relations with your workers, working side by side. You probably wouldn't have a problem with strikes, they would understand, you're there with them. But when you make specific recommendations or talk specifics to the studies that were done, I have a hard time comparing that.

**Mr Romanuk:** We're not building any more commercial buildings or industrial buildings, because they're empty. The businesses are going broke or they're closing up because they can't keep on going.

**Mr Hope:** And why are they doing that?

**Mr Romanuk:** Well, there are a number of things.

**Mr Hope:** It's all of a sudden—Bill 40 is not even introduced and yet you're telling me—

**Mr Romanuk:** Bill 40 is part of it. It's all part of the process. If you just go back and read—you said we never addressed it. We addressed it.

We're not saying Bill 40 is the only thing. That's another bloody nail in the coffin. The whole world is slowing down. We're just saying that in the commercial-industrial business we're going to have to wait. After things pick up it's going to be another two or three years before we're going to need new buildings. They're going to have to fill up the space. They're going to have to fill up the empty desks. What we're saying is, let's encourage business. Let's get them, let's get those desks filled up, let's get those buildings full, let's get people back in building, in the construction business.

I can go back to a year ago to my last president's message. This is 1991: "In the last four weeks, June 10 to July 5, the plan office at the LDCA has averaged about 30 projects for tender. In the first week, 31 of 33 projects were government or government-funded projects. Only two jobs were for private industry, and one of these was a bank. In the last three weeks we had only government or government-funded projects out for tender.

"Well, we are all in the building business and we need work. It's false economy to believe that only government-funded work keeping us busy can foster long-term survival. We need an economic structure, building places for businesses that can pay for the buildings. We cannot survive building buildings for a government that can't pay for them. If you believe in free enterprise and an hour's pay for an hour's work, let the politicians know."

We understand that. Just make it easy for us to make a living.

**Mr Hope:** Around the trade policies which are making specific recommendations to encourage private investment in Ontario, because I've seen—

**Mr Romanuk:** Probably the best thing that's happened to our country is free enterprise.

**Mr Hope:** The same ones you're talking about doing studies on—I remember a study back in 1988. We made it very clear that to get a lot of people onside in order to encourage private investment in rural Ontario, we needed to make sure that the free trade agreement that was being put before us was taken away because one of the protection clauses which generated—

**The Chair:** Mr Hope, do you want to leave time for Mr Winner? He's given you his time.

**Mr Hope:** Yes, I would. If he has time, I'll let him go ahead then if he only has a short period.

**Mr David Winner (London South):** I'm not going to indulge in a debate as to why there's a downturn in the construction industry—

**Mr Romanuk:** There are a lot of reasons.

**Mr Winner:** —although, like Mr Hope, I believe there are a lot of reasons other than our modest labour reforms. You quoted from the London Free Press. I'd also like to quote from an article in the London Free Press today which indicates, according to the Department of Labour, that unionized workers, fearing for their jobs, hit by government-legislated wage caps and possibly reassured by the absence of inflation, are swallowing the smallest wage increases on record, and at the same time, the number of days lost to labour disputes have reached an all-time low.

I ask you this: Given that you've had a number of years of what I guess you've described as harmonious relations with your employees, given the necessity of bringing in the labour sector as a full partner in the creation of economic wealth and given the fact that in the figures you cite in your paper from the Environics poll that 73% of Ontarians who are not now unionized have no interest in joining a union if given the opportunity, why can't the business community and the construction sector relax a bit and acknowledge that these reforms should go through and not continue this propaganda campaign to drive jobs out of Ontario?

I was pleased to see that Ontario was leading the country in terms of construction starts, residential permits for housing. It's true, it might be in the non-profit and cooperative sector, but it's creating more jobs than the other provinces have been able to achieve.

**Mr Romanuk:** You asked a number of questions on that article. That same particular article I read that's right in front of you, it talked about somebody—I can't remember the name—who was all upset, and they need this legislation because the rest of the employees in that particular company voted to decertify. But it only talked about the one person who still wanted to have the union. It didn't talk about the rest of the people in the company who decertified a union. That was sort of biased.

**Mr Winner:** Sorry, you're referring to a different article, but I'll give you a copy to take away with you. This is from today's paper.

**Mr Dool:** I'd like to comment, too. The wage hikes that you see today are indeed quite low in a relative manner. A \$2.70 increase over the next three years is not a low amount. It might be low percentage-wise. The cost of living

of course is down. The unions reflect that in their wage demands and what they expect over the next two or three years. So you would expect wage increases to be lower.

**The Chair:** I want to say thank you to you gentlemen, Tom Dool and Ken Romanuk, for appearing here today on behalf of the London and District Construction Association. You've played an important part in this process and we thank you for your interest and attendance.

1030

#### ENERGY AND CHEMICAL WORKERS UNION

**The Chair:** The next participant is the Energy and Chemical Workers Union. Please come forward and have a seat. Please, sir, seat yourself in front of a microphone and tell us your name and title, if any, and proceed with your submission. Please try to save the second half of the half-hour for questions and exchange.

**Mr Daniel Ublansky:** My name is Daniel Ublansky. I'm the national legislative coordinator of the Energy and Chemical Workers Union. Just for your information, the Energy and Chemical Workers Union is a trade union with approximately 35,000 members across Canada, approximately 40% of whom are located in Ontario, so we're a small union.

We certainly welcome this opportunity to present our comments to this committee and hope they will assist in developing a legislative program for reform of the Labour Relations Act. I'm sorry I don't have a written copy to submit to the committee at this time. I will certainly make that available afterwards. Unfortunately, due to vacations and short notice, I wasn't able to produce it in a written form at this point.

To give you an idea of who I am, I've worked for the Energy and Chemical Workers Union for the last 17 years, since 1975. I'm not an economist; I'm just a labour relations practitioner, although I see this bill in perhaps more than just a narrow focus. On the other hand, my perspective is that of someone who has been involved in protecting and representing workers for 17 years. So maybe sometimes I lose sight of these large economic issues that seem to be dominating the debate, and perhaps I'm more interested in the nuts and bolts because I've been working with the act for so long.

I presume everyone has looked at the preamble to the existing Labour Relations Act, which has been in place for quite some time and has reflected the public policy of successive governments of all political stripes: It is in the "interest of the province of Ontario to further harmonious relationships between employers and employees by encouraging the practice and procedure of collective bargaining between employers and trade unions as the freely designated representatives of employees."

That goal, which as I say is contained in the present act, has been endorsed by both Liberal and Conservative governments in that past. However, there has been no attempt until the election of this government to actually evaluate the effectiveness of the act in relation to the goals it professes to promote.

We believe this government is to be commended for having the courage to take a serious look at the issue of



labour law reform in this province and to actually attempt, hopefully successfully, to introduce provisions which actually, truly promote the goals which everyone says they believe in.

As I've said, it is at this moment, and has always been since the introduction of the Labour Relations Act, public policy in this province to encourage the practice and procedure of collective bargaining. However, I think it's obvious to everyone, certainly in the labour relations community, that the Labour Relations Act, which is the instrument of the implementation of that policy, has been a dismal failure.

The provisions in the existing act have been totally inadequate in protecting the right of workers to join the union of their choice. The Ontario Labour Relations Board handles between 500 and 1,000 complaints every year relating to certification applications in this province.

Unfortunately I didn't have the latest report, but when I looked last night in the 1989-90 annual report of the Ontario Labour Relations Board, the board noted, "In complaints against employers, the principal charges were alleged illegal discharge of or discrimination against employees for union activity in violation of sections 64 and 66 of the act, illegal changes in wages and working conditions contrary to section 79, and failure to bargain in good faith under section 15." These charges were made mostly in connection with applications for certification.

The board also reported that in cases settled by labour relations officers and those in which board awards were made, compensation amounting to about \$474,965 was made to aggrieved employees, as well as offers to reinstate. I might note again, as someone who's been a practitioner for 17 years, that not all complaints get to the board, and not all complaints are as amicably resolved at the board. There are many cases of intimidation, threats and coercion which occur that don't find their way to the Ontario Labour Relations Board, and I'm here to tell you that this is true.

Even if you're going to stick with the statistics, clearly they indicate that threats and intimidation by employers is a common feature of all organizing campaigns in this province. The time has long been overdue for the Legislature of this province to send a clear message to employers that the terror campaigns launched against workers who seek to exercise their democratic rights will no longer be tolerated.

The provisions in Bill 40 represent a modest attempt to make it more difficult for unscrupulous employers to frustrate the democratic rights of their workers. It is an insult to the intelligence of working people in this province for many of those same employers to oppose those measures on the grounds that they are undemocratic. Employers are not champions of workers' rights in this province. They never have been, and until Bill 40 is passed, there's no hope that they ever will be. We can always hope that Bill 40 will usher in a new era of enlightenment, but the truth is, we're not there yet and we're not there now.

The Labour Relations Act has also failed to promote the goal of achieving harmonious relationships within workplaces which have been organized. As the previous speaker has pointed out, and as the literature of Project

Economic Growth, which I happened to glance through yesterday, points out: Although, as has been noted this morning, that trend may be changing, it's often said and often pointed out that Canada has lost 5.2 million person-days due to strikes and lockouts in the past year.

Clearly that is a reflection of the failure of the existing labour legislation to come to grips with the difficult problems which exist in today's workplaces. Those strikes are not the result of greed; they are the result of frustration. Again, I speak as someone who has walked picket lines, who has been involved in strikes, and who has fought on behalf of workers seeking justice and dignity. Try it when you've been on that side for a while and see how your perspective changes.

The proposals for reform contained in Bill 40 will genuinely contribute—they certainly won't achieve a magic transformation—to the achievement of harmonious relationships between employers and employees by providing a more balanced framework for the exercise of power within the workplace.

#### 1040

Clearly, ultimate power will always rest with the employer, but the unilateral exercise of that power by employers is not in the interests of the people of this province and it never has been. Experience in other countries, in Europe and other jurisdictions, clearly demonstrates that.

The time has come in Ontario. Workers in the 1990s are demanding a greater measure of equality in the workplace, and the fact is that it is in the economic interest of all that those demands be accommodated. If this province is indeed ever to pull itself out of the depths of the present economic crisis and move on to a vigorous recovery, it will have to do so on the strength and vitality of its workforce. Business in this province needs well-motivated and enthusiastic employees to produce goods of the highest quality. That is our only salvation in this world of global competitiveness. If industry leaders believe that this can be achieved by force or by thwarting the exercise of free choice by employees, they are sadly mistaken and out of touch with today's reality in the workplace.

Reform of the Labour Relations Act can be the perfect mechanism for guiding this province to a new prosperity in the upcoming century. We urge industry in this province to take a serious look at the government's proposals and to see beyond narrow, parochial concerns. Look at what we all stand to gain, rather than focusing on loss of control in the workplace, and in my view that is indeed what this is all about.

Our union supports the position of the Ontario Federation of Labour on the specifics of Bill 40, and I don't propose to repeat what is contained in the OFL brief. There is one issue, however, I would like to highlight, because it does relate to one of the ongoing programs of our union.

Specifically, section 22 of Bill 40 deals with the introduction of a mandatory "consultation provision" into the collective agreement. Our union has had what we call a continuing dialogue program in place for the last five years to deal with workplace issues during the term of collective agreements. Unfortunately the primary obstacle to the success of that program has been finding employers who are

willing to talk in a meaningful way about those issues. Most employers are simply unwilling to acknowledge that trade unions have a legitimate role to play as economic and social partners within the workplace and society as a whole. That has certainly again been the underlying message in the reaction of the business community to Bill 40 as well.

Our union has recently been involved in an unfair labour practice complaint with Union Carbide, which is reported in the May 1992 edition of the Ontario Labour Relations Board reports. That case involved a decision by the company to relocate a portion of its operation to another facility, as it turned out in the same community, although it was not quite as simple as that. In any event, during the course of the hearings it came to light that the decision to relocate was virtually made six months prior to the actual announcement. When company representatives were asked during the hearing why the union was not informed at an earlier stage of preparation of what the company's plans were, these representatives responded that only final decisions needed to be communicated and there was no need to involve the union until all decisions had been made and it was virtually too late to affect or change the plans.

As it turned out, the Ontario Labour Relations Board held that by not revealing its plans during negotiations for the renewal of the collective agreement, the company had violated section 15 of the act, which is the duty to bargain in good faith. While that result was more than justified on the evidence before the board, we achieved that result only because the timing happened to be right. If the decision-making process had been completed within the term of the collective agreement, the company's actions would have been completely legal under the Labour Relations Act. Thus, workers would have been denied the opportunity to know in advance what the company intended to do and to have some input into the decision-making process that would, in the result, have such a vital impact on their future.

What this case points out, I believe, is the need for an ongoing duty to bargain in good faith throughout the life of a collective agreement, particularly where the employer plans significant changes which affect working conditions or job security. I believe that provision has been dropped in Bill 40 from the government's original discussion paper. I regret that decision. There is a need, and that need ought to be complemented with an effective remedy as well. This ongoing duty to bargain exists under US law. Quite frankly, without it, it is highly doubtful that employers in this province, at least in the year of Our Lord 1992, would be willing to accept that the union has an equal say in the implementation of restructuring and other workplace changes.

I would direct similar comments at the government's proposal in Bill 40 dealing with plant closures. Subsection 41(1) of Bill 40 provides that employers must bargain in good faith and make every reasonable effort to make an adjustment plan, but then denies the board the power to remedy breaches effectively by taking out the same remedial power as is given in section 15. Unless I'm mistaken, that seems a rather puzzling omission and leaves workers totally at the mercy of employers in plant closure

situations, one of which I am dealing with at this moment, and it's not the first time. The sad reality is that when plants close, employees have little or no bargaining power, no leverage, nothing to try to achieve some form of justice and dignity in negotiating the terms of the closure. I think that is a significant omission and I would certainly ask this committee to reconsider that decision.

Those are my comments. I'm available for any questions that may be directed.

**Mrs Witmer:** Unfortunately, your presentation this morning is another example of the polarization that has been created around Bill 40.

I take exception to one of the statements you made, that employers are not champions of workers' rights. I do not believe we can paint all employers with that brush. I would like to tell you that I have received several letters recently from employees who are very supportive of their employer and the fact that their employer has been a champion of their rights, and they wanted me to be aware of that point. I think it's unfortunate that blanket statements like this are made about employers. I don't think we should make blanket statements about any individual or group.

**Mr Ublansky:** Or union.

**Mrs Witmer:** Exactly. That's what I said: "or group."  
1050

We're here for five weeks to hear comments about Bill 40. If we're going through a consultation process that's costing the taxpayers of this province a tremendous amount of money, what compromise are you prepared to endorse as far as Bill 40 is concerned? You're aware of the concerns on both sides of the issue. What are you willing to see changed in response to the concerns that have been expressed by the employer group?

**Mr Ublansky:** With all candour and all frankness, most of the submissions I've heard from employers have been similar to the one that preceded mine. I certainly haven't heard any constructive alternative suggestions reported in the press. That may well be a product of the polarization you were talking about, because that's certainly what the press has focused upon. Quite frankly, from where I sit, that has been a deliberate campaign that was started by industry. It's unfortunate that sometimes when you play with fire you get burned. I don't think labour is responsible for creating the polarization.

A comment was made before which I think is apropos in respect of the question you were asking. I don't profess to be at the upper levels of decision-making in the province on behalf of labour, but as far as I know, there in fact have been extensive consultations over more than a year with respect to the Labour Relations Act. The passing knowledge I have of that process tells me that there virtually is no will or no desire on the part of industry to do that. As I recall, the first reaction to the so-called labour wish list was that there's no need to change anything.

**Mr Bob Huget (Sarnia):** Thank you for your presentation. I want to carry on with that point that there was no need, in somebody's view, to change anything. What I want to look at is the balance and fairness of the current act. Indeed, that's been the comment that has come before



the committee many times, that we have currently a balanced act, that it's a fair balance between employers and workers and the system is working in balance and in fairness, so indeed why change it? Knowing that you've had extensive experience as a practitioner, what has been your experience in terms of the fairness issue? Is the act balanced now? Is it a fair act?

**Mr Ublansky:** Obviously I wouldn't be here if I thought it was. It's clear, as I've said, from the statistics—and that's just the tip of the iceberg. I don't use the word lightly and I don't use it to be provocative, but I've been around for 17 years and virtually every organizing campaign I've been around is like a terrorist campaign. You have to sit down and plot strategy, you have to be careful and do everything you can, you have to decide who you can trust and who you can't trust—all aimed at protecting workers from their employers if the news gets out that they're trying to organize.

I've seen the fear in people's eyes. It exists, it's real, it was there 17 years ago and it was there yesterday. I helped organize a small group in London. Yesterday we had our first meeting with the employer after we finally got certified, and the terror and fear are still there. They can't believe they can actually sit in the same room with their employer and talk about their working conditions. They can't believe that can exist. That's all because of the fear.

I saw a number of incredulous reactions to what I said about strikes. I've been there, I've been on the other side of the fence, and I'm telling you, there are not very many strikes I've seen, certainly in the chemical industry, which is what I'm most familiar with, that are the product of greed. They're the product of frustration, sometimes years of frustration, at the inability to achieve some measure of fairness in the workplace.

**Mr Michael A. Brown (Algoma-Manitoulin):** I'm interested in your comments at the beginning, when you talked about purpose and the signposts of successful labour legislation. I would ask if you could indicate to the committee what the signpost of successful labour legislation would be in this province.

This bill's going to pass, and it's going to pass the way it is. It's a railroad. It's going to happen in a short time frame. We all know that, so this stuff is kind of fun but not much use. What I want to know is, three years from now, as a legislator, if I look at this, how can I tell whether it worked or didn't?

**Mr Ublansky:** First of all, as I said, you have to identify what the goals are, what it is you're trying to achieve. The goals in Bill 40 are relatively modest. As I indicated, there are a number of provisions in Bill 40 which attempt, somewhat indirectly, to make it more difficult for employers to terrorize their employees. I don't know how you're going to measure success there.

**Mr Brown:** Does it mean there'll be more union members? Does it mean there'll be fewer? Does it mean there'll be more strikes? Does it mean there'll be fewer? You tell me—

**Mr Ublansky:** If the polls that are—

**Mr Brown:** You tell me how I know.

**Mr Ublansky:** If you'll let me finish, I will. If the polls that are quoted are correct and people really don't want to join unions, then likely it's not going to have any impact. If that's true; that remains to be seen. Personally, my experience is that people don't join unions in large measure because they're afraid of the result; they're afraid of what it might mean to their job security. If some of these modest changes give them a greater sense of comfort, it might have some impact on organizing and might mean more union members. But as I've said, if people really don't want to join unions, then it won't have any impact.

With respect to people who are already in unions, a number of provisions in Bill 40 attempt to strike a more even balance within the workplace. How do you measure that? Perhaps it will be reflected in a continuation of the trend that has already begun with respect to decreasing the number of strikes, because my experience tells me that most strikes are the product of frustrations built up over a period of years based on the treatment people get in the workplace. Very few strikes really are about dollars and cents or the difference between dollars and cents.

**The Chair:** Mr Ublansky, we have to thank you—we don't have to, but we want to. We have to because it's that time to do it, to thank you for your participation in this process.

**Mr Ublansky:** I appreciate the opportunity.

**The Chair:** We're grateful to you and the people you represent, the Energy and Chemical Workers Union, for your interest and eagerness to be here this morning.

1100

#### BREWERY, MALT AND SOFT DRINK WORKERS, LOCAL 304

**The Chair:** The next participant is the Brewery, Malt and Soft Drink Workers union, if they'd please come forward, tell us their names and titles, if any, and proceed with their submission. We've got your written submission; it's an exhibit. Everybody will read it or has read it. Please try to save the last 15 minutes of this half-hour for questions and exchanges.

**Mr John McNamee:** Thank you, sir. Good morning. My name is John McNamee. I have with me George Redmond, who is also a full-time officer of the union.

Very briefly, given the time available, let me tell you that the union has about 3,500 members throughout virtually every walk of life in Ontario with the exception of the construction industry. All of those members are covered by the Ontario Labour Relations Act.

I personally have also been involved in labour relations for 17 years. I am a lawyer as well as a full-time representative of the union and I have extensive experience both of negotiating appearances before the Ontario Labour Relations Board and rights tribunals and other matters.

I would like to start by thanking the committee for taking the time to listen to our submissions and to advise you that in general we concur with the thrust that Bill 40 puts forward. However, we did not read Bill 40 with an uncritical eye.

In our approach to this bill we tried to look at the objectives that a labour relations act ought to achieve. It seems to us there are two. The first objective is that there should be a prescribed code of minimum standards of conduct and enforcement mechanisms. The second objective ought to be to move labour relations in this province towards a form of more harmonious and productive, less antagonistic relationships. In effect, something which one would expect to come out of it in fact is—I'm going to say the word—greater productivity and competitiveness.

However, in order to do that, it seems, the first objective should reinforce the second by removing from points of contention and argument things experience has shown cause unnecessary or exacerbated conflict.

So we would see the act working both those ways: starting a new direction in terms of a better working relationship between employers and employees, and at the same time enforcing codes of conduct which say, "If you don't need to fight about this"—because experience has shown that—"then don't." It seems to me that makes some considerable good sense.

Essentially, we see the ultimate objective of a labour relations act as promoting some kind of shared responsibility in the proper operation of business or undertaking. The ultimate goal, we suggest, should be a form of the European codeterminism which has worked so well. The difficulty we have in getting there is that North American attitudes have been so antagonistic and so unfortunate, perhaps, that employers and employees have real difficulty in getting there. We believe it is up to the Labour Relations Act to provide direction towards that kind of goal.

In that regard, we particularly welcome two aspects of the bill which we think have received too little attention.

The first of those is the advisory service. I'll tell you from my experience that with respect to most employers who are newly certified, their reactions are far more on the basis that they don't understand what they're getting into and they are scared to death than anything else. I don't believe that most of them consciously set out to breach the act. They have a real difficulty, however, in understanding what the act requires of them.

We go through this on page 9 of the brief, but it is our view that the advisory service should contact both parties to an application for certification no later than immediately after the application is filed and offer them both, either jointly or severally, the opportunity to meet to discuss matters which may be difficult in terms of the coming relationship and try to meet in a non-confrontational setting while giving the employer, and perhaps the union as well, the opportunity to gain a basic understanding of what's happened.

My experience is that most employers, whether or not they are represented by legal counsel, do not understand how the act applies, and they work on the basis, quite frankly—and it's not too surprising—that nobody is going to come in and tell them how to run their business.

Some kind of consultation with the use of the advisory service ahead of time, I respectfully submit, is just a wonderful idea, and that is particularly so because the beginning of the relationship sets the tone for years to come. To

that extent it's extremely important that the parties start off on the right foot.

We therefore have some criticism of the first-contract arbitration provisions the bill provides. We don't believe that two mechanisms to achieve the same end make sense, and we believe that the as-of-right application, which only occurs or triggers 30 days after a no-board report is issued, is far too late. By that time there could have been far too much unnecessary damage to the relationship.

We would suggest—and you can see it; I believe it's on page 7 of the brief—a much simpler procedure which would still place the onus on the parties to reach an agreement, but (1) is not something which is a two-part process—which, respectfully, is a bit silly; you don't need two mechanisms to achieve the same end—and (2) you want something which can be invoked at an early stage before too much damage has been done.

The other aspect of the bill that we welcome is the consultation aspect, the provision which requires at a minimum that an employer and the union sit down at least once every two months, if demanded, and discuss issues of mutual concern. We believe the idea here is absolutely right: What should happen is that the parties should move to a greater exchange of information as a first step to greater codeterminism.

I would simply say, however, that as a first step it is too weak. There should be some minimum standards of disclosure required of both parties in those meetings which, with respect, will give them the opportunity to form a better relationship. I deal with some 20 employers on a daily or weekly basis and have a good relationship with any number of them. We do not fight much. With some I don't. I do not honestly understand why in one case I can make a real go of it and in another case I can't. I think some of it is haphazard and some of it has to do with personality. But we need a legislative nudge to move people in the direction where you can build and hold a good relationship, because once you've got one you prize it and you work to keep it.

To that extent we have been extremely disappointed by the nature of the employer lobby. It seems to us it has been an entirely negative resistance to change for the sake of change and that the employers in this province and elsewhere are going to have to change. The attitude which says, "We want better-educated, more versatile employees; we want to empower them more in order to avoid the costs of supervision"—and that's what all the management gurus are telling employers—does not fit with a suggestion that in the end you sit there and the real authority of responsibility that you give employees is merely an illusion that can be pulled back at any stage. That will not work.

Employers who want better-quality employees are going to have to understand that those employees are going to demand something back, and so they should. I don't mean in the financial sense—although that's always nice—I mean in the sense that the employee, together with the extra responsibility for taking care of the employer's business or undertaking, has a real sense that he is part of it.

I tell you, in our view very strongly, that the difficulty with competitiveness in this province is not the fact that there are well-educated, good employees available, but an



employer attitude which says they are unable to take advantage of that because they're still based on a master and servant relationship which says you negotiate wages every two or three years, and every other day you sit there and the employee does exactly what he's told. Those two concepts don't fit together. If you want a smarter, brighter employee, then don't expect him to be smarter and brighter just when he's negotiating wages. It's going to happen every day.

1110

I realize my 15 minutes are running short. I would like to take you through a couple of points in the submission that we specifically would like to comment on, generally with respect to the bill. Anything that is not mentioned in the submission we concur with.

On page 3, in terms of the eligibility for collective bargaining, the extension to certain agricultural employees, domestics and so on is a good idea and is long overdue, but frankly will have little impact as long as the board can certify bargaining units of only two employees. It makes no sense to say to the one employee, "If there was somebody beside you, you could negotiate terms and conditions of employment, but since there isn't, you're in the situation where if you don't like what you get, quit." That doesn't make sense.

With respect to the statements of desire—I can tell you, as a lawyer, I have been through tons and tons of these—the halfway house the bill provides is silly. All you are going to do is end up with employers interfering in an organizing campaign—they do—at an earlier stage in order to rush off to the post office and get the statement of desire in before the union gets the application in. You will have the same forms of silly litigation. It's not worth it. The Canada board and most other labour boards in this country don't accept statements of desire. We see no reason why they have to be accepted here.

With respect to section 12 of the bill regarding access of union organizers to private property, we understand there have to be limitations, but we do not believe the limitations which talk about "at" or "near but outside" entrances and exits make sense. It is too conducive to employer supervision. The right to privacy certainly will not be there. With the greatest respect, the bill should say that the union organizer has the right to be on private property, subject to undue disturbances, of course, and allow the board the discretion to deal with individual cases.

With respect to the adjustment provisions set out in the bill, we would suggest that you can't take the member halfway and say, "Well, if you don't happen to have a collective agreement in force at the time, you can take the issue off to arbitration, but not otherwise." It makes no sense from an employer's point of view as well. The Canada labour code has a variation of it in terms of the automatic termination of a contract under certain circumstances. We would suggest that those issues always be able to be taken to arbitration. That's an advantage to the employer as well, because then you don't have to negotiate adjustment provisions well in advance, using only a crystal ball to guess as to what might happen.

We would also suggest, by the way, as a technical matter, that there be a basket clause included in terms of the issues an adjustment plan may include.

We have one technical concern with respect to the just-cause rights arbitration section: that is, it leaves open the potential that an employer, instead of discharging an employee, may lay him off. With the lack of a seniority provision in those circumstances, the board may well be constrained to find that the just-cause provision can be avoided. I would suggest there be something included to prevent that.

With respect to the sale of a business, I can only say that we were both surprised and disappointed that there was nothing dealing with the issue of contracting out, which is subject to as much abuse as contracting in.

We have two technical concerns with respect to the back-to-work protocol, the first being that the language of the proposed bill, where it refers to the end of a strike or lockout, is imprecise. We suggest that this ought to be tightened up to ensure that the board can find quickly when that point occurs.

The second point deals with the question of recall, and Bill 40 refers first to the provisions of the collective agreement in terms of recall. As this will most likely be an issue if a union is attempting to surrender, it should not be open to an employer to insist upon very weak recall provisions and thus avoid the act again.

With respect to strike replacements—perhaps the most contentious point of this—I would merely say that experience in other jurisdictions has proved that the language and the concept work. In fact, the Quebec conseil des employeurs just last week dropped its appeal against similar legislation and said it understood it worked. We do, however, have a problem with the requirement that 60%, rather than the union's constitution of 50%, applies.

I realize I've gone through that very quickly and I apologize, but I wanted to leave time for questions.

**The Acting Chair (Ms Sharon Murdock):** Thank you very much. Mr Hayes and Mr Ward, you have four minutes for the whole caucus.

**Mr Pat Hayes (Essex-Kent):** Thank you very much for your well-put-together presentation. I'm pleased to hear you talk about the advisory service because I think that's a very helpful tool to bring parties together to sit down and deal with mutual concerns or widespread concerns. At the same time, with that service we're talking about the replacement workers; in fact, you indicate in your brief that this particular piece of legislation to ban replacement workers will in fact bring people together.

I'd like to ask you really bluntly: Could you give us some cases, if people you represent were out on strike, how it would have affected them on their strikes, the length of strikes, had we already had this legislation in place?

**Mr McNamee:** I can tell you about a strike to a soft drink manufacturer in northern Ontario some five years ago. Most employers would not be impacted by this legislation, because most of our employers don't attempt to operate during a strike; but then we have very few strikes because we work hard to avoid them. But certainly in that

case, that strike went on for almost six months. It was an unfortunate situation because there really was no understanding, no means of communication between the parties.

Had we been in a situation where the employer felt under pressure to reach an agreement on terms other than its own—I'll tell you, I made some mistakes in that set of negotiations as well—that strike would not have occurred. But the employer came to believe that it had nothing to lose in that set of negotiations because it could end up operating without the employees, and it ended up doing so. We ended up with a strike which badly damaged the employer's business—it obviously suffered—and caused considerable distress to the employees. It should not have happened.

**Mr Brad Ward (Brantford):** I'd like to thank you for your presentation as well. Do you feel that under the existing act we do have a level playing field as far as power and labour relations in this province are concerned? Also, from your experience in the trade union movement, could you expand on the obstacles that employees face when they do make the conscious decision and say, "We think we need a trade union to represent us"?

1120

**Mr McNamee:** The act is absolutely not balanced at present. It provides minimum degrees of protection, largely on the basis of the employee's right to join the union, and the board does a good job of enforcing what is there. But in terms of the Supreme Court of Canada's oft-repeated view that the employer has all the rights in a bargaining relationship and anything in the Labour Relations Act or, for that matter, a collective agreement is a derogation from that, which is usually read quite narrowly, the act is not balanced.

Employees very much are terrified of joining unions, I'd say—and I've been in this business 17 years—more so now than they were 17 years ago. Just yesterday I met with an employee—I haven't checked this out yet—who says he was fired for merely mentioning the word "union." He is still terrified to join the union, even though the employer has done the worst he can to him. He is still terrified because he doesn't know that there may not be more consequences.

**Mr Phillips:** Thank you for the presentation. The unemployment rate in Ontario is probably 13% or 14%; it says 11%, but it's that level. It is 13%, because there are at least 100,000 people who have dropped out of the labour force, so it's nominally 11% but it's running 13%. Plants are closing at an increasing rate, and 70% of the people who are affected by the plants are unionized. I think all of us are frightened about the economic future, and that's the backdrop we all face. I think that's one of the reasons you see the business community responding the way it does.

I think you said the two objectives you set for this legislation were harmonious workplace relations and more effective collective bargaining.

**Mr McNamee:** No, I don't think I said that.

**Mr Phillips:** What did you say?

**Mr McNamee:** I said provide a minimum code of conduct and remove from dispute unnecessary items, and

move the province to a different and better labour relations climate which would indeed talk about greater productivity.

**Mr Phillips:** That's why we need your written brief, I guess. In any event, for the business community, as it looks ahead at the relationship it's going to have with the government and with unions, this is the first real piece of evidence: "Here's the litmus test of how we are going to work together."

What many in the business community say to the committee is, "As we look at this legislation, it isn't balanced, in our view." Maybe you think that's right. There are about 32 major recommendations in the legislation, and the business community would suggest that all 32 are in favour of one side, so as they look ahead at the relationship they ask, is it going to be balanced harmoniously if the first piece of relationship we see is virtually all one-sided?

Maybe they're wrong. Maybe you can give me the three or four or five or eight recommendations in the legislation that in your view are for the management side of it. That would be perhaps helpful in our discussion with the business community because, to repeat myself, it is frightened to death about the economic future. They see this piece of legislation as the first test of what the relationship is going to be in the future, and to them it looks like it's zero for them, 32 for the trade union movement.

**Mr McNamee:** The question does not admit of an answer. This is the comparison: When I go into collective bargaining—

**Mr Phillips:** Give me the three or four things that in your view help the management side.

**Mr McNamee:** Let me try to answer the question my way. When I go into collective bargaining and I sit down for the first time with an employer, the employees I represent have no rights—zilch—except some rights under the health and safety act. When I sit down with the employer and say, "I want to negotiate an agreement that talks about a code of conduct and a way to deal with it," I've got nothing further to give him, because he has all the rights. So what I am talking about is, no question, a derogation of his rights.

That's the same comparison here. What we are talking about is an employer, who has virtually all the rights in a relationship, being asked to deal at some minimal level in terms of a code of conduct, which will have to change over the years as workforces, working relationships and business change. My criticism of the employer lobby comes back to the point that the employer lobby, instead of constructively trying to build an act which will work in the 1990s instead of one that's based on something that came out of the Industrial Revolution, has said, "We don't want any change for the sake of change."

Nor would I suggest, by the way, in the preamble to your question—I don't know about the litmus test. I can remember Sunday shopping issues. I can remember car insurance issues. Employer lobbies have done very well.

**Mr Phillips:** But am I wrong? Is this zero to 32?

**The Acting Chair:** Sorry, Mr Phillips, the time.

**Mr Phillips:** I didn't get my answer, that's all.



**Mr McNamee:** What you got, sir, was an answer which said we are not counting score; we're trying to build a good relationship.

**Mrs Witmer:** I appreciate your presentation. There's a lot here, and I will read it again. I appreciate the points you made.

You expressed regret that the employer community—and you mention it again on page 17—really has not seized the opportunity to help redesign the labour relations system. I would remind you that in the fall, the business groups did indicate a willingness to sit down and look at the issue of labour relations in the tripartite consultation process. Unfortunately, that was rejected by the government.

We've also seen many presentations from employers recommending some very positive changes to Bill 40 that would make it more acceptable to them. For example, they're looking at a secret ballot vote and some changes in the replacement worker section, and there are other areas which they certainly can support. What's your response?

**Mr McNamee:** My response to that is that my view of the public employer response—not necessarily the response to this committee or to the Legislature—has been entirely negative. They have tried to create the impression, which I believe is totally misleading, that the only issue here ought to be whether they can make a greater profit, and if they can make a greater profit, they say there will be more jobs. That is totally misleading and it will not work into the next century.

The employer lobby as a group will have to understand that when you ask more of employees, when you have better-educated employees, you're going to have to give them something in exchange to keep them. I don't think that's an unreasonable proposition.

I do not say the employer lobby has been totally destructive, and I don't think I said that; I said that in general its approach has been, "Don't change; and if you change, make it as small as possible."

**Mrs Witmer:** I would remind you that the employer group did ask for tripartite consultation. They asked for labour, business and government to sit down, take a look at the act, take a look at what the problems are—and believe me, we've heard numerous problems from all sides—and try to, through consensus, arrive at solutions.

You've been negotiating for years and years. You know the only way you're going to arrive at consensus and have a win-win situation and a harmonious relationship is to sit down and look at the problems and at solutions. The employer community feels it never had that opportunity. How can the government correct what's happened so far and make the process more equitable and fair?

**Mr McNamee:** I personally believe that if the employer community thinks it did not have that opportunity, it is, shall we say, mistaken. They were successful in watering down from the government's first initiative a number of very important parts of the bill. Whether or not there was a formal tripartite presentation, there certainly was a great deal of employer input before Bill 40 reached its present form, and if an employer says differently then that is misleading.

**The Acting Chair:** I want to thank you for taking the time to come down. It's always good to hear from a practitioner, and I know we'll be reading this again.

1130

#### JOHNSON CONTROLS LTD

**The Acting Chair:** The next presenter is Johnson Controls Ltd, Ralph Lassel and Rick DeBruyne. Welcome. As you may have noted if you've been sitting here, if you use part of your time for the presentation and leave part of the time to ask questions, it would be most helpful to us.

**Mr Rick DeBruyne:** My name is Rick DeBruyne. I'm the plant manager of Johnson Controls Ltd in Tillsonburg, Ontario.

**Mr Ralph Lassel:** And I'm Ralph Lassel, the employee relations manager.

**Mr DeBruyne:** We'd like to start by thanking the committee for giving us the opportunity to present to you our concerns with respect to Bill 40. Associations of which we are members, including the Automotive Parts Manufacturers' Association, the Canadian Manufacturers' Association and the Human Resources Professionals Association of Ontario, have done an excellent job of speaking out on our behalf with respect to Bill 40 already, but we feel that we have some specific issues we would like to deal with to make the committee aware of the concerns of our particular industry.

Before we get into those, Johnson Controls Ltd, Tillsonburg, is part of Johnson Controls Inc, headquartered in Milwaukee, Wisconsin, so we are US-owned. Founded in 1885, Johnson Controls today operates globally from more than 470 locations, employing over 43,000 employees. We are market leaders in four different industries—the controls industry, automotive seating, plastics and the battery divisions—so we are widespread.

Johnson Controls Ltd produces foam seats and foam headrests and armrests for the automotive industry at its Tillsonburg operations. Currently we employ over 500 employees. Our hourly employees are represented by the Canadian Auto Workers. We have the capacity to produce 34,000 car seats and 24,000 headrests and armrests every day. Our product can be found in the Canadian-built Toyota Corolla, the Honda Civic, the Geo Metro/Suzuki Swift, the Ford Tempo/Topaz and the new Chrysler Concord, Dodge Intrepid and Eagle Vision, which is the much-acclaimed Chrysler LH program—which was awarded to Canadian business, by the way.

However, this is a very small portion of our business; 62% of those car seats we produce and 90% of the headrests and armrests are shipped just in time to the United States. We export very heavily.

With so much of our product being shipped to the US, it becomes increasingly difficult to justify the existence of our Tillsonburg operations. Certainly Bill 40 is yet another reason for our divisional offices in Plymouth, Michigan, to question why new business should be sourced in Ontario.

Let me explain this further. In Tillsonburg we compete with nine other Johnson Controls plants for North American business. That's just Johnson Controls alone, other

foam plants. Of these, seven are based in the US and one is located in Juarez, Mexico. We have one other plant located in Orangeville, Ontario.

Let me give you an example of what happens. Until 1990, Johnson Controls Ltd in Tillsonburg supplied all seating for the Crown Victoria and Mercury Marquis assembled at the Ford Talbotville plant. The Ford facility is approximately 50 kilometres away from our operations in Tillsonburg. Since 1990, our sister plant in Juarez, Mexico, has been producing all seating requirements for these automobiles. On the surface it may not make sense, but this is the new reality. Investment and production location decisions are becoming ever more fluid. The free trade agreement and now the North American free trade agreement have redefined investment strategies.

It should be noted that Johnson Controls has already made disinvestment decisions in Ontario. We've gone from four manufacturing facilities down to two. In February 1991, Johnson Controls announced that it was closing its Port Perry, Ontario, manufacturing facility. The plant, which supplied manual seat tracks to Chrysler, Ford and GM, shut its doors for ever in April 1991. Over 175 lost their jobs permanently. On February 4, 1992, less than a year later, Johnson Controls announced the closing of its car battery plant in St Thomas. The plant produced private-label automotive batteries, including the Sears DieHard and batteries for Ford and Volkswagen. Another 170 employees were out of work permanently.

These plants didn't close because of Bill 40. I'm not trying to indicate that they did. They were closed for a host of competitive reasons. It's our contention, however, that Bill 40 will make Ontario even less attractive to businesses such as Johnson Controls.

**Mr Lassel:** I'd like to review a few of the concerns we have. Certainly it doesn't mean we're reviewing all our concerns, but we do want to highlight a few.

The first one is replacement workers. I guess we should note, before we get into that, that we were recently unionized and we've never experienced a strike. My hope would be that we never do experience a strike, but we do want to address this issue. Certainly a strike is a no-win situation for both parties. Bill 40 proposes fundamental restrictions on our ability to operate during a strike, should one occur, by prohibiting the use of new hires, employees from other locations and contractors.

The government's view that, under Bill 40, employees will not have to shut down their operations if their workers go on strike is semantically correct. We aren't legislated to shut down during that time period. Our operations, however, would effectively be shut down. An immediate transfer of business would have to take place to ensure that we would continue to meet the needs of our customers.

Bill 40 guarantees that our first strike in Tillsonburg will be our last. If our Tillsonburg operations cannot guarantee just-in-time shipments to our North American customers, business will be transferred to other plants. That's the reality. Johnson Controls Inc, our American parent, will not let itself be placed in a situation which risks shutting a customer down. Once the cost of transferring business to another location has occurred, the chances of the business

being transferred back is highly unlikely. That will be a permanent decision. Our very existence is predicated on our demonstrating and assuring our continuity of supply.

Again, we've mentioned how much of our business now is being exported to the United States. Bill 40 makes the ban on hiring replacement workers contingent on a secret ballot strike vote in which at least 60% of those voting support a strike. As you're aware, in the vast majority of cases, unions received a strike mandate well before any real threat of strike was evident. An early strike vote usually gets 90% approval. Thus the 60% threshold will not be a real impediment to unions.

The issue of replacement workers, I think, comes up because of our next point. A lot of proponents of Bill 40 have argued that the ban on replacement workers is necessary in order to reduce picket-line violence. I think it's been mentioned in these hearings before that if picket-line conflict is the reason for that portion of the bill, our solution is simple: enforce the law.

The Ministry of Labour fact sheet on replacement workers—it's one of our appendices—notes that this proposed law is similar to one which has been in force in Quebec since 1978. That's true. Quebec, we should note, is the only jurisdiction on the continent with a law barring the use of replacement workers.

Our Tillsonburg operations do not compete with any plants in Quebec. However, we do compete with plants in Indiana, Michigan, Ohio, Tennessee, California, Maryland and Missouri. None of these locations has similar legislation. Our position is simply that there should be no restriction on the right of employers to have replacement workers during a strike, subject to a duty to bargain in good faith.

Along the same lines, we're looking at the issue of restricting bargaining unit employees from voluntarily returning to work or refusing to participate in a strike. Currently, bargaining unit employees may voluntarily return to work or may refuse to participate in a strike.

Bill 40 prohibits striking employees from returning to work until the union decides to end its work stoppage. Employees would also be prohibited from staying on the job during a strike. Bill 40 takes away an employee's fundamental freedom of choice. The employees would be required to obey a union strike call regardless of how unreasonable that may be. Again, Bill 40 effectively prohibits a company, specifically ours, from operating during a strike. Employees should have the freedom, our position is, to choose whether to work or to strike at one's normal job.

We do want to comment on organization and certification. The Honourable Bob Mackenzie, Ontario Minister of Labour, has stated his belief that a labour-management partnership can best be obtained in organizations where employees are represented by a union. Towards this end, Bill 40 would eliminate employee petitions opposing a union after a certification application. That is, there would be no mechanism for the revocation of membership cards. This proposal eliminates the basic right to change one's mind. Employees would be denied the opportunity for sober second thought. It is surprising that post-application petitions will be eliminated even though petitions always lead to a free and democratic vote on the issue of certification.



As you know, in addition, the requirement that employees pay at least \$1 to join a union has been eliminated. This payment was designed to get employees to think about the implication of their decision to join a union. It does reinforce to the prospective members that they are, in fact, making an economic decision.

1140

The elimination of the requirement of the union to show adequate member support when a board is considering automatic certification in certain cases is questionable. The result will be the certification of workplaces where the majority of employees do not wish to be unionized. Also, the level of support for a representation vote has been lowered to 40% from 45% of the bargaining unit.

These proposals will certainly facilitate trade union organizing campaigns. They will not, however, ensure that all employees make their choice to join or not to join a union freely, with full information. I speak on behalf of both management and labour: It is time to eliminate—speaking with respect to both parties being involved at times in these tactics—all coercion, threats, interference, intimidation, promises and secretiveness from the organizing procedure.

We're supportive of a bill that was introduced by Elizabeth Witmer, and certainly the position of the APMA is in line with the thinking that secret ballot votes for certification and for ratification of collective agreements would solve some of these problems. Employees should have the right to decide for themselves, free of any interference or intimidation from any source, whether or not to have a union represent them, to accept the contract or to go on strike. The emphasis should be on determining the true wishes of the employees, not of facilitating union certification.

In summary—and my apologies for two typos in that first paragraph—as we know, Bill 40 contains the most comprehensive set of labour relations provisions in North America. We have reviewed only three of our concerns.

Our concerns as an automotive parts manufacturer are numerous. The APMA, CMA and HRPAA continue to speak on our behalf with respect to these concerns. We agree with the Honourable Bob Mackenzie, Ontario Minister of Labour, that "fair, balanced labour legislation brings greater dialogue to the workplace and, in doing so, makes Ontario strong." We would argue that Bill 40 is neither fair nor balanced.

The government believes Bill 40 will have a positive impact on the economy of Ontario. Ernst and Young's report, *The Impact of Proposed Changes to Ontario's Labour Relations Act*, concludes that as many as 480,000 Ontario jobs could be threatened. Furthermore, 70% of the firms surveyed outside of Ontario indicated they would be less likely to invest in a jurisdiction which adopts these changes. We are in agreement with the conclusions reached in that report.

In these turbulent economic times we are dismayed that the government sees fit to proceed with a bill which clearly ties the hands of industry and muzzles the voice of the individual and then lays claim to having fostered a new spirit of cooperation and harmony between labour and management. By speaking out, we hope to have an impact

on revising this legislation, thereby making it possible for businesses to compete effectively and to thrive in Ontario.

We join others—and there have been thousands of petitions—in asking the Minister of Labour, the Honourable Bob Mackenzie, to table the results of independent empirical studies of the impact that Bill 40 will have on investment and jobs before proceeding with the bill.

Those would be our comments.

**The Vice-Chair (Mr Bob Huget):** Thank you very much. Questions? Mr Offer.

**Mr Offer:** Mr Brown has the first question.

**Mr Brown:** I was obviously interested in your brief, but I was also interested in a brief we had yesterday evening from the Oxford Regional Labour Council, I believe, in which it mentions your company in particular. I'm not sure you're aware of that.

It says in here, and this is relating to your company: "In the first drive the union signed 59% of the workers to membership cards. At this point the company had a petition sent out and brought the percentage down to 53, causing a vote to be taken. The union lost by two percentage points."

I asked them how they explained the difference between 59% with cards versus, I guess, a 49% support in a secret ballot. They said the difference was company intimidation. I quote from their brief further on. They said, "During the drive, the employees were threatened, especially if they showed any outward support for the union." I thought this would be a good opportunity for you to place your side of the case.

**Mr DeBruyne:** I guess I can answer first and invite Ralph to interject anything he might add.

I believe when you read that you said the company implemented a petition. That's incorrect. That petition was introduced by employees, not by the company at all. In terms of specific coercion and intimidation, there was none, sir.

**Mr Brown:** Then what would your explanation be for the 10% difference in the support in a secret ballot versus the petition?

**Mr DeBruyne:** My comments would be that there are a lot of pressures on an individual to sign, or not sign, by people who are in favour or who are not in favour. Once given the opportunity to make their individual choice, they so decided.

**Mr Offer:** You're involved in the area of automotive supply. There are a number of automotive suppliers in this province, all on a just-in-time basis. In Toronto we heard from the parent association, who indicated that the just-in-time aspect is one which is becoming more concrete, more definite. The time aspect is in fact becoming shorter.

Though you've spoken about very specific aspects of the legislation—and I thank you for that, especially for your constructive suggestions as to how they can be addressed—tell me how you see this legislation affecting your company, and companies that do your type of work, in the future.

**Mr DeBruyne:** If I understand the question—I apologize if I don't—to start with, "just-in-time" is a term that's

fast changing. Some of our customers now refer to it as "just-in-sequence," which means you actually load the truck in such a fashion that, as it's unloaded, it goes directly to the line and it will be assembled forthwith.

If this answers your question—I hope it does—there's really no room for distrust in an organization today. We've got our work cut out for us as a management team, and as an employee team that's represented by the CAW. We are going to be forced, without Bill 40, to pursue harmonious relationships. Are we there? Not totally. Do we make mistakes? Yes, we do. Do we need a government bill that skews the representation at the bargaining table? No, we do not.

**Mrs Witmer:** Thank you very much for your presentation. We heard the Automotive Parts Manufacturers' Association last week on August 13. I guess the primary concern of your industry is the fact that you will not be able to maintain supplying the people you have contracts with during a strike. Are you saying that if that were to happen—now, you did have a strike at the plant here, and one of the other firms in the United States was forced to take over the contract—that in all likelihood the plant here would be eliminated?

**Mr DeBruyne:** Yes, I am.

**Mrs Witmer:** Do you see that happening?

**Mr DeBruyne:** The very real possibility of that occurring is there, yes. I can't say yes, it will happen. That sounds like a threat or coercion and that's not my intent. I'm saying the very real possibility is there. Should we risk supplying our customer? There is no doubt that the business will have to be moved, because we can't run that risk.

**Mrs Witmer:** That's one of the areas of concern the government needs to take a look at more closely, because we're hearing it not only from yourself and the automotive parts industry but from other individuals who are saying companies are now looking at the total North American continent and that they don't need to have a plant in both Canada and the US. They're looking at one location being sufficient. Unfortunately, Bill 40 puts a barrier around this province. If people are looking to make an investment in North America, this bill certainly does eliminate the possibility of them even giving it serious consideration.

Are you aware of these concerns? I know it was pointed out in Detroit, at the meeting in June, that American investors are very concerned about investing here in the future.

1150

**Mr DeBruyne:** Yes, we're aware of those concerns, and we agree with them. This is very difficult for our Tillsonburg operations. The amount of foam that's required in the Canadian automotive seating business, the cars that are assembled here in Canada, Tillsonburg can supply all of those Canadian-content cars. There are other competitors in Canada that have a share in the business, so our share of Canadian business is minimal. We rely on export to the US to continue to supply jobs to ourselves and to the hourly workers. We need that export business. My boss has reflected his concerns about what's happening in Canada. There's no doubt about it.

**Mrs Witmer:** So what would you say to this government? I know you've given some suggestions here. What should it be doing to make sure that we do continue to have good jobs for people in this province and that new investment is encouraged to come?

**Mr DeBruyne:** I think you touched on it at the last presentation. I'm an advocate of change. Change for the sake of change is somewhat risky, and I think change for the sake of progress is what we need to be pursuing. I think that could be done if we could get labour and management, or industry, and the government to sit down and discuss all the needs of all sides. I don't feel that's being done at this point.

**Mr Winninger:** Just in response briefly to Ms Witmer's point, we do have a list here of manufacturers, including Fleck Manufacturing, which actually has decided to come back to Ontario to create 75 jobs in Tillsonburg, and I think that's a very positive development.

I must admit that I do have fundamental difficulty with a couple of points you made. First of all, you made the point that you came here on behalf of both the employer and the employees. Second, you talked about employees being able to choose their collective bargaining agent without fear of threats or intimidation.

I have here a document which was filed with the Ontario Labour Relations Board—it's at least 19 pages long—which details a deliberate and identifiable course of conduct by your company vis-à-vis its employees, intending to and having the ultimate effect of improperly interfering with its employees' selection of a trade union bargaining agent. That's replete with documents and correspondence from the company to the employees documenting that course of conduct and alleging threats and intimidation.

According to the brief filed last night by the Oxford Regional Labour Council, all of these tactics contributed to many months of delay and years of mistrust and bitterness that is just now beginning to diminish. I take it the organizing drive was ultimately successful, notwithstanding the documented attempts by the company to thwart the desires of the employees.

How can you talk about employees being free of the threat of coercion and intimidation when there's a well-documented case here that the company was pursuing exactly that course?

**Mr DeBruyne:** Without having that in front of me, I would have to ask that you read further. We were not found guilty of coercion or efforts of—

**Mr Brown:** Oh, details.

**Mr Offer:** Small points.

**Mr DeBruyne:** It was not found to be correct.

**Mr Winninger:** The petitions were unsuccessful and the organizing drive was.

**Mr DeBruyne:** But there was no automatic certification due to coercion or whatever wording you used there.

**Mr Lassel:** On your first point, let me comment that I misspoke if the interpretation was that I'm representing employees of the CAW. The point I was trying to make in



my summary was simply that when we talk about these very things, about coercion and threats and intimidation, we are not saying that one party in all cases is responsible. I'm not pointing a finger at the CAW. Other parties are certainly capable of those sorts of things. My point was simply that for those reasons, we're supportive of a secret ballot, which would eliminate those things across the board.

**The Chair:** Mr Ferguson, Mr Hope having yielded to you.

**Mr Will Ferguson (Kitchener):** Both of you seem reasonably bright and intelligent. I would ask, given that you're in agreement with the conclusions reached in the Ernst and Young report, how you could agree with those findings when in fact they establish that 50% of the people questioned had no idea what the proposed changes were in the Labour Relations Act but were asked to comment on them anyway: "Never mind whether or not you know anything about this. Do you agree with it or disagree with it?" How could you agree with a report that came up with those conclusions when half the people asked had no idea what was in the report?

**Mr Lassel:** I'm not skirting the issue, Mr Ferguson. If you are in disagreement with those results, again we would ask that the government table its own empirical data. That's all we're asking for. That's all we have to go on. Sir, if you want to table your own data, that's what we're asking you for.

**Mr Ferguson:** You say in your summary, "We are in agreement with the conclusions reached in the report." The way they obtained those conclusions was that they asked people their opinions and they asked people whether or not they were aware of the changes to the Labour Relations Act. Half of the people weren't, and they said, "Even though you're not aware of the changes, are you in favour or are you opposed?" How could any reasonably minded individual agree with the report when they asked respondents that type of question and half of them had no idea?

**Mr Lassel:** Let me first say I'm glad to see that you haven't lost the aggressiveness you showed at Kitchener council. I'm glad to see it's still there. Let me further comment that if you have other data that don't support these conclusions, I'd like to see them.

**Mr Brown:** Table your poll as well.

**Mr Hope:** Have I got time?

**The Chair:** Yes.

**Mr Hope:** I'm surprised there's even a little bit of time left. How much time do I have, Mr Chair?

**The Chair:** Go ahead, Mr Hope.

**Mr Hope:** When I was listening to your presentation and I started to understand it—and I'm listening about the just-in-time theory, because I come from a small parts manufacturing plant—and when I'm listening to you about strikebreaking, isn't it the goal, especially dealing with the just-in-time theory, of the small parts manufacturers to sit down and bargain in good faith and to try to come up with a mutual understanding in dealing with the report in there? Do you predict there's going to be a strike?

There has to be a resolution in place that both management and labour are going to sit together and consult and talk to one another. Bargaining doesn't take place 60 days before termination of a contract. Bargaining takes place throughout the three years of the term of a contract. I'm sitting here saying, in the three-year time frame, if you're doing things appropriately through management relationship, you're going to consult through that three-year time period.

I know most of the people probably in this plant and other plants, when they have three-year collective agreements, it's "Through the three years of that time frame, I'm going to help you make as much profit as possible, but I want to make sure you understand that at the end of the three years I'm coming back for some of the profits I helped you achieve." With that in mind, and I know most trade unionists have that in mind, there will not be the confrontation of strikes.

**Mr DeBruyne:** No argument from us. The efforts between our bargaining unit and ourselves have to be to avoid a strike and come to a harmonious relationship. I don't disagree with what you're saying at all.

**Mr Hope:** With that theory in mind, then there should be no fear of any strikes, no fear of putting that in for those employers who do not do that during the three-year time frame. They're the ones who are going to have to be concerned, because the only time they will really sit down with the union is at the end of the three-year collective agreement. But with the philosophy you carry, there should be no fear of any replacement worker law being put in place, because you've been understanding and you've been communicating with your employees on a three-year term, no fear whatsoever.

**Mr Lassel:** The premise that your argument is based on is simply that unions always take reasonable positions. I would say that may not always be the case. We've never had a strike, we don't look forward to having a strike, we don't project a strike, but if it should occur, for the survival of our business we would need replacement workers to run the plants.

**Mr Hope:** That's the same premise you use that it's going to cost jobs and it's the same premise you have to use that you have to work on a three-year time frame. If your contract's for three years, you negotiate after day one. The achievement is to make as much profit. The people who are at that bargaining table are employees who work in that workplace. They are not about to sacrifice their jobs. Is that not true? Your employees are there to help you produce.

**Mr Lassel:** With all the plants closing, I guess I can't agree with that statement.

**Mr Hope:** Look at how the plants are closing. They aren't closing because of labour relations.

**The Chair:** Mr Lassel, Mr DeBruyne, I want to thank you for appearing here today on behalf of Johnson Controls Ltd. As you probably know, there were a large number of groups, individuals, companies, associations that wanted to appear. We weren't able to accommodate all of them. However, you are one of the Tillsonburg and

Tillsonburg area participants. We express our regrets to the balance of those people from Tillsonburg wanting to discuss both sides of the issue. None the less Tillsonburg has been reasonably well represented here. Thank you, gentlemen, take care and have a safe trip back home.

**Mr Lassel:** Thank you very much.

**Mr DeBruyne:** Thank you.

**The Chair:** Other than there being any matters that people want to raise, we are recessed until 1:30 this afternoon.

The committee recessed at 1201.



## AFTERNOON SITTING

The committee resumed at 1330.

WOODSTOCK DISTRICT  
CHAMBER OF COMMERCE

**The Chair:** It's 1:30. We're ready to resume. Our first participant is the Woodstock District Chamber of Commerce. Please tell us your name and title with the Woodstock District Chamber of Commerce, and go ahead with your submission. Please try to save at least the last 15 minutes for exchanges and dialogue.

**Mr Robert White:** My name is Robert White. I am the other Robert White.

**Mr Brown:** You're not Premier Bob.

**Mr White:** No, I'm not, but I am the president of the Woodstock District Chamber of Commerce.

Some brief background on our chamber: We're a long-established chamber. We've been in the city of Woodstock since 1877. We have some 260 members and we represent the vast majority of local industry and commerce in the Woodstock area. We have been assisted in what we have been doing in the last four or five months by the Ingersoll District Chamber of Commerce and by the Tillsonburg District Chamber of Commerce as well.

What we want to do is tell you a little bit of what we are encountering in our area as a result of the proposed changes to the legislation. When the changes were announced in the Legislature, a subcommittee was struck in our chamber representing a very broad segment of the commercial and industrial businesses in this area.

This subcommittee undertook an educational campaign through our local newspaper, the Daily Sentinel Review, and also on local radio station K-102 to familiarize the residents of the area of the changes that were impending. We also invited businesses, anybody in the area, to write to the Sentinel Review, our local newspaper, and express their comments as to how they felt the legislation is going to impact on them.

What you have attached to our presentation are copies of some of the letters that were written to the editor as a result of the advertisements and the campaign the chamber has been conducting, and these letters are from a cross-section of what we consider to be industry and commerce in our city.

We are very lucky in the city of Woodstock because we are very close to the Cami operation in Ingersoll. It's just down Highway 401 from us. We have been very fortunate in attracting to our area a number of automobile parts suppliers to Cami. Of course you will all be aware of the fact that if you're going to be working for the Cami operation, you're going to work with Cami on an integrated supply and inventory control system, just-in-time.

What is coming back to us from the members of our chamber who are involved in the Cami operation and of course from the municipal officials whom in our active campaign we are running across is the impact of a single strike on the Cami operation.

It's really fun to go through this plant and see how it works, how the Cami operation is joined by television and fax and telephone to these various suppliers. You'll have a supplier who provides all the windows for the cars or all the seats. A strike in one of these suppliers to the Cami operation could have some very substantial impact on our area.

People are suggesting to us, "This is a very great concern in our area." I suppose you could equate this to what President Bush did when the railway strike happened in the United States. That could very well be the same kind of impact on our area, and we have heard and are hearing a very great deal of concern from our area because we are very heavily oriented towards the automobile manufacturer. There have been suggestions, because of the critical nature of the automobile industry in the community, that perhaps the Legislature should consider an exemption for that particular portion of the industry. It represents such an important sector of the industry, and I ask you to give that some consideration.

The other thing that we are also hearing and that is of gravest concern to us is the fact that we're very lucky to have a bunch of Canadian subsidiaries of American operations. What we are finding is that we are hearing from these Canadian subsidiaries of American parents that there is a much more difficult time in justifying their existence in the Canadian operation because of the anticipated impact of the changes, particularly the lack of replacement workers.

It was these Canadian subsidiaries of American manufacturers that brought to our attention articles that were appearing in American publications that had been pointed out to them by their American parents, saying, "What is this going to do to you?" These are articles which you probably are all familiar with: the article in the September Wall Street Journal and articles in other newspapers, the Detroit News and so on.

What's happened in our area is these Canadian subsidiaries of American parents are coming to the chamber and saying: "This is what we're running into. This legislation is not only having a tremendous impact here locally, but don't make any mistake about it, the American parents of our plants know what's happening up here and we're having a difficult time justifying our very existence. We don't want to make any mistake about it."

That's a very clear message that we are getting from our Canadian subsidiaries, companies like Thomas Built Buses. You see the big yellow buses driving around. They're manufactured in Woodstock. There are hundreds of employees at Thomas. The message we're getting from Canadian executives of that industry is, "It is becoming more difficult to justify our existence here." That is of very great concern to us.

We are also concerned when major automobile parts manufacturers indicate at the convention in Hamilton that, although there is a hunt going on for manufacturing locations for the automobile industry, Ontario is not on the list because of the anticipated impact of this legislation by what is seen to be the American investing public. So do

not sell short the impact that the legislation is having outside this country. It is having a decided impact. We're hearing about it and we're very concerned by it.

I want you to have a look at the letter the president of Timberland wrote to the Daily Sentinel Review. Here is quite a different situation. Here is a Canadian heavy industrial manufacturer with approximately 60 employees with an American subsidiary in Louisiana. The president of Timberland wrote a letter to the Daily Sentinel Review and said that investments are being made in the US; they're not being made in the Canadian operation located in our city. As you can see in the letter he wrote, he is the individual responsible to the board of directors for investment decisions. He's the guy who's making these investment decisions with the board of directors. We're losing this investment in our town and we're not happy with it.

In addition, you'll see a letter there from another manufacturer in the city of Woodstock, Canada Stampings and Dies Ltd. He has written a letter to the Premier. He indicates in the letter he wrote to the Daily Sentinel Review that he has 31 unionized employees, and he is suggesting that he can no longer see his entrepreneurial operation in Ontario if this legislation comes into existence.

I went to public school and high school with the man who wrote this letter. I've known him all my life. I hope nobody thinks he's kidding, because he's not. In his letter he said he had told Kimble Sutherland that "if his party enacts the amendments as proposed I am all done being an entrepreneur in Ontario. I don't think he believes me." I just want you to understand very clearly that in our area—this man isn't kidding—we're of course concerned by matters that relate to investment in this province.

I'm a lawyer. Several months ago I wrote a letter to the Premier. In my practice we don't represent major entrepreneurial operations throughout the county or the province, but I've been doing this sort of thing for better than 20 years. I wrote the Premier to tell him of the number of my clients who are taking investments out of this province.

I told him that I've never seen anything like this in my 20-plus years of doing this and that I have clients now who have one foot in another jurisdiction, either Manitoba or the northern US, and the other foot in Ontario. I don't like that. I'm very unhappy with the fact that clients of mine seem to feel that their entrepreneurial operation is endangered and somehow or other they have to take assets out of Ontario. Surely that is not the intent of the legislation.

1340

There are many parts of this legislation that we can certainly live with. As a matter of fact, what happened on January 31—you'll also see in the material we've given to you a list of people who attended the offices of Kimble Sutherland, the MPP in Woodstock. We went to his office so that these 21 people would have an opportunity to express their views as to the impact of this legislation on their business.

What you see there in that attached list is a very representative cross-section of commerce and industry. One by one they had an opportunity to tell Kimble Sutherland how this was going to impact them. I assure you each one of them told him that it was going to make it more difficult

for them to carry on their business operations. That's what's coming back to us.

Of course the problem we have is that if this is what the end result of this legislation is going to be, then we have a great deal of difficulty believing that the legislation should be implemented at this particular point in time. We are having a difficult enough time down in our area with the various economic difficulties that all of you are well aware of, and I assure you that this is making things more difficult, particularly in our area where we have a lot of Canadian subsidiaries of American operations.

I've had one of the larger industries tell me that it is running into questions like this. When they are meeting their American customers, their American customers are asking: "What are you doing in the US to guarantee your product's supply to me when your industry is closed down by a strike, as this new legislation appears very likely to do? Do you have a parallel operation in the US?" Of course the answer is no. That's the kind of question that's very difficult for anybody to answer, not necessarily for politicians, such as all of you are. How do you answer these people outside this country upon whose financial interests this legislation is making a very substantial impact?

That's what we're running into. We would like you to very seriously consider some kind of meaningful, consultative process to determine the legacy of this legislation. This legislation could very well end up being one of the worst things that has ever happened to the labour movement, because it may very well end up being associated with the flight of capital and the flight of jobs. Heavens, everybody here knows investment is jobs. That's true. It is. We're losing it in our area; we're losing jobs in our area.

Whatever the aim of the legislation is, and everybody's read plenty about it, it is not working. That's our message to you. Something has to be done with this legislation or we are going to be very severely damaged in our area.

I'd be pleased to attempt to answer any questions, Mr Chairman.

**The Chair:** Ms Witmer, four and a half minutes, please.

**Mrs Witmer:** Thank you very much, Mr White, for your presentation. I appreciate the views you've put forward. Obviously you know that the views you've expressed are very similar to views we're hearing across this province from people very concerned about the ability to create new jobs and the loss of investment in the province. In speaking to someone from the Brantford community yesterday, I understand they're also in a similar position to yourselves, where they are concerned about future job loss as well.

We're here, hopefully, to listen to people such as yourself and to take into consideration your point of view and incorporate it into the changes in Bill 40. I know we'd all like to go back to the point where we would have tripartite consultation, but if that is not to be—and the government has indicated that's not to be—what is it you would recommend that it do with this bill? What do you find most objectionable?



**Mr White:** Our basic recommendation would be that the implementation should be delayed. I don't think the real legacy is known, because this is hurting investment and jobs. If that is not to be, if that can't be, then there are a number of changes. The obvious one, of course, is replacement workers. That is the one we are hearing most about in our area in the automobile industry, particularly with the Cami operation. We're very frightened of what could happen, because that would be a very devastating blow, and we've been so bloody lucky.

This is my own opinion: I don't think our area is as badly hit as other areas in this province because of Cami. Cami's just up and running for three years. It's going full blast and we are the beneficiaries of all of the parts manufacturers. But if something like that happened, it would be a very severe body blow to our area. So it's the replacement workers that we think are the key; that's the issue.

If any changes are going to be considered or implemented, I think the change should be examined from the point of view of how it's going to impact on investment and jobs. That's the ultimate matter. As far as we're concerned, we don't believe this legislation necessarily should be thrown out. There are a lot of things in this legislation that perhaps could be very helpful. But guys like the president of Timberland are telling us that because of those provisions in the bill, the money's going to the States and we're losing; and we have guys like Bob Hewitt, who I've known all my life. The 31 people are very concerned about what's going to happen to them, and I don't blame them. Bob Hewitt is not the kind of guy to write a letter to a newspaper; he's very quiet. He means it. There's something wrong.

I don't know all the answers, but I don't think you do either without sitting down in a consultative process with the people who make investment decisions. That's the real key to this.

**Mrs Witmer:** I would agree with you. I don't think all the partners involved in decision-making have really had an opportunity to sit down and take a look at the Labour Relations Act, determine what the problems are and mutually decide through consensus how we can arrive at solutions.

**Mr White:** That seems to be what people in our area are saying. Everybody knows the only way we can really compete in world markets is for labour, management and capital to work together. That's the only way we're going to be able to compete with the rest of this world. I can tell you now, as you all must know, this isn't doing it. This is not doing it. It's not doing it in the investment area, it's not doing it in the area of the creation of jobs and it is not doing it in the area of labour peace. That's the great concern we have.

**Mrs Witmer:** Thank you for your comments.

1350

**Mr Hope:** Mr White, I was going over the information package you provided, the column "The NDP and A Goose Called 'Industry.'" I was wondering if you've ever seen the movie called *Mouse Land*, produced by Tommy Douglas, because I think it will show a part of that.

You were talking about business investment. I remember working for a major international corporation called Rockwell International. One of the emphases was that we never aired our dirty laundry in front of potential customers, because we never wanted to leave a bad taste in their mouth. Whatever happened in our workplace had to be dealt with behind closed doors, because we were always trying to encourage investment.

But I see the chambers of commerce coming before this committee with a very negative perception of what is going on in the business community, really painting a very negative view for the potential consumers who live in our communities. Somebody says, "I may move my plant outside the province of Ontario," and many employees employed there are starting to say, "Maybe I'd better not spend any money in my community, because the potential of my job leaving is unknown."

I was also going through the letters about the rapid growth of wages between 1985 and 1989, when prosperity was in a lot of our workplaces, when companies were making profits and were dishing it out too. A lot of negotiations took place without it.

I understand some of the concerns business has, and giving up management's rights has always been a contentious issue between workers and managers. But when I read the presentations, I'm wondering if you're not, by the negative campaign, defeating the purpose of helping your economic development officers encourage business in the communities you live in. You made reference to Cami and how Cami is prosperous. Well, there are some things going on right now with Cami that are not good and one of my communities happens to be affected by Rockwell International with Cami. It's not because of any labour issue; it's because of what's happening around the trade market, what's happening with the free trade agreement and the potential agreements that are coming up with Mexico.

I just wanted your views on that. You put together a good presentation, I thought, from the heart, but I just wanted to express those points of view. Are you not using a double-edged sword?

**Mr White:** No, I don't think so, because what we're trying to do is deal with results. We don't think we should come to this committee and suggest what's good for the province of Ontario and what isn't. That's what you people are elected for. All I can tell you is what's happening about 30 miles down the road. What we're trying to deal with here is what's factually happening. It isn't me, I assure you. The chamber had nothing to do with the delivery of the article from the Wall Street Journal. Maybe the Wall Street Journal is not the bible of the financial community, but I'm telling you, it's a big chapter in the New Testament. People read that, they look at this article that has been written about the province of Ontario. Are you familiar with the article?

**Mr Hope:** But how's it being promoted?

**Mr White:** Basically, what I'm suggesting to you is the impact this legislation is having on the Canadian subsidiaries of our American manufacturers. These are facts. These cause us very, very great concern. People in the

United States are reading articles that say, for example, "What died in Russia is still alive in Ontario today." I don't believe that, but there are a lot of American people who do when the Wall Street Journal tells them that. That's the problem: the perception of what's going on in this province outside this province itself. That's what we're hearing in the chamber, because we've got so many—Thomas Bus, with hundreds of employees. We went to our MPP and said to him, "Look, we're not politicians, but we can tell you this is what's happening to us."

I don't want to be cast in the view that I'm trying to tell you how the legislation should be written. That's your job. What I am telling you is that this is hurting us badly. I don't care what you do with the legislation to fix it; that's your job to figure out, not mine. This legislation is costing jobs in Oxford county, this legislation is driving investment away from our city: facts.

**Mr Hope:** What jobs have left because of this legislation?

**Mr White:** Yes.

**Mr Hope:** What jobs? You said facts prove that jobs have left.

**Mr White:** The investment, for example—why don't you call the president of Timberland and ask him? The president of Timberland, with the American subsidiary down in Shreveport, Louisiana, who wrote the letter. I spoke to him, and he said: "I cannot justify it. My investment is down in Louisiana." They mirror the Canadian operation, but because of the anticipated problems this legislation is creating, that's where the investment went. With it went the jobs that would have been here.

**Mr Hope:** But is it not so that—

**The Vice-Chair:** Thank you, sir.

**Mr Phillips:** I appreciate very much the chamber's presentation, and I appreciate the members of the chamber who have had the courage to speak up. Just for your information, Mr White, and your members', we have a problem here. Many of us do very much agree with your hypothesis that we are going to lose jobs and investment. The Premier himself said that the future of the province depends on our manufacturing sector getting world mandates for products, in other words, the Canadian plant getting the exclusive right to produce one product. But if an organization or an investor is going to find that the plant cannot produce any of that product for some period of time, I'm afraid we'll lose that investment. We right now see our unemployment running at—I think it's 13½% in Ontario—it's nominally 11—and plant closures at record numbers.

I appreciate your analysis of what it's going to do for jobs. The problem is, I honestly don't think the government members believe that's going to happen. Certainly the union leadership doesn't. The union proposals say the business community's gone hysterical, that these are minor—the earlier speaker this morning said it—essentially minor amendments that are being made. So we've got a problem, and we'll only know probably in two to three years. Unfortunately I happen to think you're right.

**Mr White:** That's the way I see it.

**Mr Phillips:** By then we will have lost not just three years, because investments take an awful long while to come back; we'll lose 10 years. The business community I think has tried to make its voice heard, but I think the government members think it's hysterical. Correct me if I'm wrong. Certainly the unions consider the business community to be hysterical.

I have more of a comment for you than a question. You have done a good job of pulling out for us the specifics. It takes a lot of courage for a company to come forward and say, "I might leave," because it just creates public grief for it and for its employees.

From my perspective, I basically support the chamber's contention about lost jobs. I may not agree that it's going to be as bad as perhaps the chambers in the province, but it's going to be bad.

We'll do the best we can in terms of the legislation, but I honestly think the die is cast. I think this legislation will be through the House by Thanksgiving. For your information, the rules are set. The timetable is set. There is not going to be a prolonged debate at third reading. They've already passed those rules, over our objections. We will do whatever we can. I just urge the chamber to continue to do what you're doing. I think this is a very responsible brief you've given us today.

**Mr White:** It's all we can do, really. We're not the big area in the province, but this is what's happening—

**Mr Phillips:** No, and I have a lot of respect for your chamber as well. I have some understanding of it. I'm sorry I don't have a question, Mr Chairman, other than just a comment on the brief. I think Mrs Witmer asked the question I was interested in, that is, assuming that it is going to be going forward, what areas are you most concerned with. Because of the manufacturing base in the Woodstock area, I think you've lit on the replacement worker issue, and I think it's a big issue for the Premier too.

If we are going to go after world mandates where companies are going to invest in one plant producing exclusively their product for the world and there's a risk that they would be put out of the potential to produce that product for an extended period of time, I think we have two concepts banging right up against each other to the detriment of the workers of the province.

**The Vice-Chair:** I'd like to thank the Woodstock District Chamber of Commerce and you, sir, for your presentation here this afternoon. You provided valuable input to the committee. I'm pleased to meet the other Robert White. It's nice to have met you.

**Interjection:** That's the guy we've read about in the other papers.

**Mr White:** No, I'm not the guy.

1400

#### BEAVER FOODS LTD

**The Vice-Chair:** The next presenter is Beaver Foods Ltd, if they could come forward. Welcome. Please identify yourselves and proceed with your presentation. If you could allow about 15 minutes of the half-hour allocated for



you for questions and answers, I know all the committee members would very much appreciate that.

**Mr Allan Greenslade:** Good afternoon, ladies and gentlemen. On behalf of Beaver Foods, I would like to say that we are pleased to be here today and to have this opportunity of responding and discussing the impact of the proposed changes to Bill 40 and the effect that will have on our establishments and our company as a whole.

My name is Allan Greenslade. I am the senior director of human resources for Beaver Foods. For your information, Beaver is a contract foodservice catering firm serving a very diversified range of clients across Ontario and in fact the rest of Canada. With me today is Paul Bachand, the vice-president of human resources of Cara Operations, of which Beaver is a part.

I would like to say that we do support the views and share the concerns put forward by the Ontario Restaurant Association. However, because of the limited time available, I will not go over the issues already discussed in their submission, as I'm sure you're quite familiar with them.

Our approach to the Ontario Labour Relations Act and to the proposed changes embodied in Bill 40 stems from our belief that the interests of workers in the workplace should be paramount under the act. It therefore follows that trade unions are merely the means, or only one of the means, through which the interests of the workers in the workplace can be secured and/or protected. The act as presently written in many instances ignores the rights and interests of workers in the workplace. Bill 40 goes further to negate workers' rights and interests; its effect will be to transform the act into a sort of charter for the extension and entrenchment of union power in our economic and political life.

In his statement to the Legislature on June 4, 1992, the Honourable Bob Mackenzie said in part that, "This legislation...prohibits unfair practices by both unions and employers." Continuing, he said: "But even more important, it sets the tone for employer-employee relationships throughout every sector in Ontario. It plots a course for a more open workplace, one which is more responsive and democratic." The minister goes on to ask those who have been vocal in their opposition "to this forthcoming legislation to assess it with an open mind. There is a genuine need to accept that change is necessary and inevitable."

We agree that change is necessary and that it is inevitable. We also wish to assure this committee that we are heeding the minister's refrain to assess the proposed legislation with an open mind, as we hope that the Ontario Legislature, through you, will give consideration to our views expressed here with an open mind.

In this spirit, before raising some important issues with respect to several specific sections in Bill 40, we wish to make a few general observations in light of the honourable minister's statements before the Legislature in part quoted above.

The minister reassures us that the proposed Bill 40 sets the tone for employer-employee relationships and that it plots a course for a more open workplace, one which is more responsive and democratic. If the minister is alluding that Bill 40 sets the tone for a more harmonious employee-

employer relationship, then he will be disappointed. Harmony and democracy can only be achieved where at the root of an employer-employee relationship is mutual trust and respect for each other's rights, coupled with respect for dignity of the individual. Such a relationship can only be facilitated by laws which are, and are perceived to be, fair providing for a level playing field for the competing interests in the workplace.

We respectfully submit that Bill 40 does not advance the cause of mutual trust between the employer and the employed. Worse, in many ways it negates the democratic rights of workers, leaving aside its obvious anti-employer bias. The more you open your mind studying Bill 40 and its consequences, the more obvious it becomes that the focus of this legislation is upon unionization and union power in the workplace, with workers' interests being only incidental to its main thrust.

In support of our contentions, I will now address several specific sections in Bill 40.

**Purposes:** In keeping with democratic principles and rights of workers, at least before their workplace is unionized, the act should unequivocally state that workers also have a right not to join a union. Thus, we are proposing changes to paragraph 1 of section 2.1, which would then read, "To ensure that workers can freely exercise the right under this act by facilitating the right of employees to choose to join a union, or not to join, and be represented by a trade union...."

**Dealing with membership in a trade union, section 8:** No one will lament the elimination of the requirement to pay \$1 to signify one's considered intent to join a trade union. Often this token fee is paid by the union as organization expense. However, Bill 40 is silent on the subject of abuses surrounding a union membership drive: misrepresentation, unrealistic promises and outright intimidation.

The act must protect the rights of the worker and enable him or her to make a considered decision—probably the most important decision in a worker's work life—to join or not to join a given trade union.

To remedy this gap in Bill 40, we recommend that the act provide for a prescribed membership application form to be signed by the worker wishing to join a trade union. Such membership application form should clearly detail all conditions of membership in that particular trade union, especially including amounts of any initiation fees, membership dues or other monetary assessments.

Deficiency in this area in the current act more often than not is the reason for petitions to the Ontario Labour Relations Board by workers who were misled to sign trade union membership cards during a union organization drive, asking the labour relations board not to consider them as members of the given trade union.

**Representation vote, subsection 8(2):** The whole process of representation vote, or no vote, together with the certification procedure of a trade union under the current act is undemocratic, cumbersome, time-consuming and prone to abuse. As such, the whole process is perceived to be unfair. It is particularly unfair to all the workers, including those who, after having signed a trade union membership card, often under dubious circumstances, have no say

in the certification process with the exception of when and if a representation vote is ordered by the labour relations board. The result of this flawed process is conflict and bitterness in the workplace, lasting years following certification of the trade union. Bill 40 does not remedy this condition. On the contrary, it is reinforcing the perception that the system is stacked, arbitrary and unfair.

We recommend that all provisions in the act prescribing different treatment, when different levels of worker support for a trade union exist, be repealed; in their place to be introduced a simple, democratic and the only fair process to ascertain the true wishes of workers under all circumstances—the secret ballot at the workplace administered by the labour relations board.

1410

The procedure leading to the secret ballot should be as follows:

The trade union first obtains not less than 45% support of all eligible workers in the workplace by way of signed application for membership forms and files them with the labour relations board.

**Mr Ferguson:** Slimebucket.

**Mr Greenslade:** The labour relations board orders that two general information meetings of all eligible workers be convened, one for the trade union presentation and one for the employer's presentation.

After the second meeting, the labour relations board will order a representation vote by secret ballot to be conducted at the workplace not less than 24 and not more than 72 hours after the last information meeting.

Fifty-one per cent or more of votes cast in favour of the trade union will result in certification.

Aside from it being a democratic and fair process, our proposal will leave no room for all the skulduggery surrounding the process under the present act, and we are sure Bill 40 as is will improve nothing in this area.

Paul, perhaps you would like to proceed.

**Mr Paul Bachand:** Evidence: We have already pointed to one reason why workers petition the labour relations board to disregard their signed trade union membership cards. There are other reasons which are difficult for the labour relations board to ascertain, such as intimidation and other forms of pressure to join a trade union. To deny petitioning the labour relations board once the application for certification is filed with the labour relations board, as proposed in Bill 40, is a high-handed and arbitrary denial of due process where fundamental rights of workers are concerned.

Petitioning is a very difficult procedure for workers to follow under the present act. Bill 40 will turn the petitioning provision of the act into a meaningless sham. An ordinary worker is no match for a union machine in the race to file documents with the labour relations board.

It is begging the question to ask whose interests are being served by erecting more obstacles in the line of last defence of the worker's right not to be manipulated or coerced to join a union before the closed-shop provision of the act forecloses his or her freedom of action.

The best way to restore and enhance the worker's rights here is to adopt our recommendations above with respect to subsection 8(2), which would render subsections (4), (5) and (6) redundant. Alternatively, the act would specify a procedure for workers petitioning the labour relations board at any time before the trade union is certified. Provisions should also be made for workers to obtain promptly all necessary information and relevant forms for petitioning from the labour relations board offices.

Certification when act is contravened: Section 9.2 is open to abuse through premeditated acts of provocation on the part of union organizers goading the employer so as to create an apparent contravention of the act. Charges and countercharges follow with legal challenges and so on. For the labour relations board to certify a union under such circumstances constitutes an arbitrary and unfair punishment not only of the employer but also of the workers involved, who are innocent bystanders and whose rights to choose are thus grossly and irrevocably violated. Such arbitrary action in itself contravenes the principles of natural justice and fair play. No one in a group of people with a community of interest should be compelled to join a trade union or any other organization without at least allowing the majority of that group to first consent to becoming a member in a given organization.

Should it be proven beyond a reasonable doubt that an employer did in fact contravene the act, then the labour relations board could dispense with the 45% requirement for union membership in a workplace and proceed to the information meetings stage as recommended under the secret ballot representation vote mechanism outlined in subsection (2) above.

Replacement workers: Considering the fact that a major thrust of Bill 40 is to prohibit hiring of replacement workers by the struck establishment, it follows that a parallel restriction should be codified in the act restricting picketing. The regulation of picketing should not be left to the discretion or the whim of the labour relations board. If the purpose of picketing is to inform the public about the labour dispute within a given establishment, the number of pickets should be commensurate with that purpose. No obstruction of entrances and exits should be permitted—no mass picketing, no picketing by anyone who is not a worker of the establishment being picketed.

As well, picketers from other locations or hired picketers should not be permitted. Only employees from the struck location should be permitted to picket at the geographical location.

The non-use of replacement workers during a strike in our industry would have a severe effect on the establishments we cater, especially in hospitals, universities and isolated campsites where we are the only supplier of food. Without the use of replacement workers these businesses would have to be completely shut down, which would be disastrous for these clients—the workers, patients or students, as the case may be.

Powers of the Ontario Labour Relations Board: These two clauses are the first of many in Bill 40 which strike at the very heart of our system of government: the separation of powers into legislative, administrative and judicial



branches of government. Here the government is creating another quasi-judicial agency and endowing it with vast powers, including powers to make and change its own rules at will and make it responsible to no one. Such agencies destroy the citizens' respect for the rule of law and thereby subvert our democratic system of government. For the good of labour relations in Ontario and the good of society in general, we recommend that all sections in Bill 40 dealing with the powers of the labour relations board be considered and reworked.

Contract services, successor employers: Section 59 of Bill 40 would implement amendments to the Ontario Labour Relations Act which would establish the automatic rollover of a union's certification as well as an employer's responsibilities under the Employment Standards Act from one employer to another when a foodservice contract is awarded to a new contractor. As a major foodservice contractor we support the principle of this provision because it would increase the fairness between companies competing for foodservice contracts as well as protect the rights of our employees.

We are concerned, however, that the objective being pursued in this policy initiative is not adequately reflected in the text contained in Bill 40. We believe, for instance, that the legislation does not adequately define the property owner as the contractor in the event a foodservice contractor's contract expires or is cancelled and the services are taken in-house and performed internally. Further clarification is required in Bill 40 to ensure that the mechanism requiring the rollover of employment standard responsibilities applies when the service is taken in-house. It is important that all providers of this service are treated as contractors for the purpose of the rollover mechanisms.

Bill 40 also needs to be amended to ensure that the seasonal aspects of some foodservice contracting are reflected in this legislation, in particular relative to the requirements that a reasonable job offer is made to existing employees. Many foodservice contracting operations are seasonal, especially those serving educational institutions. This means that at certain times of the year the foodservice operations are not functioning and a reasonable employment offer cannot be made until the operation resumes later in the year. An amendment to Bill 40 must be introduced which would ensure that an employment offer to the employees of the former contractor can be made in a time frame which reflects the seasonal nature of some foodservice operations.

In a way, the issues we raise here are philosophical. We believe in the rights of the individual; therefore we placed the rights of the worker in the workplace before the rights and privileges of a trade union. The goals of a trade union are not always the goals of individual workers in the workplace. This fact is completely ignored by the proponents of Bill 40. Workers' rights and interests in the workplace should be given precedence over trade union interests before they, the workers, are compelled to become part of a union shop which, we repeat, is often an abridgement of individual rights in favour of the trade union.

We thank you for the opportunity to appear here today and to express our concerns regarding Bill 40. We hope you will adopt the ideas we have put forward.

**The Vice-Chair:** Questions? Mr Hayes, about three minutes.

1420

**Mr Hayes:** Thank you, Mr Greenslade and Mr Bachand, for your presentation. I was just noting on the one part there when you talked about membership in the trade union and you talk about the fact that the bill "is silent on the subject of abuses surrounding a union membership drive," abuses such as "misrepresentation, unrealistic promises and outright intimidation."

We've had a few people who are opposed to the bill who have indicated the fear of abuses from organizers, but we've also had several people come in here and give us some specific cases and some of their own personal experiences of the abuse, intimidation and coercion and things of that nature. Could you give us some specific cases you're aware of where this has actually happened on the part of organizations or organizers?

**Mr Greenslade:** The answer I would give to that is, in all honesty, in some cases I am reflecting information that has been given to me. However, personally, the first thing that would come to my mind is the type of: "You should join. Everyone else has joined. If you don't, you'll be the last one. You're the only holdout." I realize that is not necessarily the kind of—

**Mr Hayes:** No. But you don't have any specific cases. This is just a—

**Mr Ferguson:** Names.

**Mr Hayes:** No names of anything or the name of any union, for example. You don't have any of those specifics you would give us.

**Mr Greenslade:** Absolutely no.

**Mr Hayes:** Very quickly, do you agree, either one of you, with the Environics study that was taken dealing with Bill 40?

**Mr Greenslade:** Yes and no.

**Mr Hayes:** I know it said that 73% of Ontarians who are not now unionized have no interest in joining a union if given the opportunity. Do you agree with that?

**Mr Greenslade:** The percentage? Probably not.

**Mr Hayes:** You're saying it's probably a high percentage then.

**Mr Greenslade:** Yes, I think so.

**Mr Hayes:** If you actually agree with that, then I would have to ask you, why are you so afraid of this particular bill if you believe in that study? The study says there's not going to be a large influx of workers wanting to join unions.

**Mr Bachand:** In our industry, unionization has been a very slow process. I think that's shown by the number of unions that actually exist in the foodservice and restaurant area. However, we have been informed publicly that our industry has been picked as a target for unionization in the

future because of lack of memberships the unions are experiencing in general.

**Mr Offer:** I hope we're able to deal with two areas, firstly the contract services, so that you could maybe flesh out a little bit how that operates within your establishment and the impact the bill would have, but my first question deals with the replacement workers. In the third paragraph you talk about, "The non-use of replacement workers during a strike in our industry would have a severe effect on the establishments we cater." You speak about "hospitals, universities and isolated campsites." I'm wondering if you can explain that to the committee. I'm not absolutely certain as to what that means.

**Mr Greenslade:** The nature of where we operate and how we operate, it could result in where workers or students or patients in hospitals could be severely affected by a strike, for instance.

**Mr Offer:** I guess I'm asking you: In a hospital there are cafeterias, and they may be run by yourselves, or by someone else?

**Mr Greenslade:** In this instance I'm referring to a case where that is the case, yes, or that would be the case.

**Mr Offer:** Is it your feeling that under the legislation, in a cafeteria in a hospital that you operate, if there is a labour disruption, a strike would be permitted where replacement workers would not be able to be used?

**Mr Greenslade:** We very often would not only manage the cafeteria but we would also provide patient services.

**Mr Offer:** I'm sort of hearing two different impacts of the legislation. On the one hand, in fairness, I'm hearing from others that it wouldn't apply, and I'll use the hospital as an example, in a hospital that is catered by outside services such as yourselves. Here I'm hearing the opposite, and I think that's a fairly important point and I thank you for bringing that up. Perhaps the ministry officials who are here could take note and respond to us as to whether in a hospital setting, if the catering is provided from an outside service, in the event of a strike with the individuals involved, the replacement worker provision would kick in.

**Mr Bachand:** If I could just add, we have accounts with universities where we are the sole supplier of meals to students who live on campus, as well as campsites where we are the sole supplier of meals to the employees who work in mines.

**Mr Offer:** I hope the ministry staff heard where you are also expanding the examples to universities and campsites.

**Mr Greenslade:** We operate in many very remote camp operations where we are the only source of food.

**Mrs Witmer:** Thank you very much for your presentation. I do appreciate the fact that you have, I think, done exactly what's been asked. You've gone through the document and you have made recommendations for changes and amendments and given reasons as to why those should be considered by this particular committee. I hope we will be able to incorporate some of the amendments you have proposed.

I'd like to focus on section 59, the contract services. You asked that the bill be amended to ensure that the seasonal aspects of some food service contracting is reflected. I'd really like for you to expand, because I guess as it is now there is no allowance for the fact that some operations are indeed seasonal. What would be the impact, do you think, under the present legislation?

**Mr Greenslade:** As I interpret the present legislation, depending upon when the contract change took place, if it took place during a down time—in other words, when the educational establishment is closed—it would not be possible for us to meet the requirements of the act in terms of a reasonable offer, both from the reasonableness standpoint of the offer as well as the timing of it. We could not meet that legislation.

**Mrs Witmer:** What would happen, then, to your operation?

**Mr Bachand:** There's a possibility, for example, if I can just go on a little further, that the employees who are laid off in June, for example, in school sites, and are back to work in September, if a contract change happens, those people could actually be omitted from a process. Okay? There would be no job offered to them at all because they just weren't employed at that time. What we're asking for is that you take a look at that and consider those people as employees. Proper job offers should be made to them when the facility opens again in September, is what we're saying.

**Mrs Dianne Cunningham (London North):** Thank you for your presentation today. You seemed to unnerve at least one of the members on the opposite side, as he shouted out, I think it was, "slimebucket" or something as you were speaking. It's hard for some of us to understand that there is an intimidation on both sides.

Although you presented your concerns as managers, I'm just wondering if in fact you're also concerned that there may be some intimidation, as the government has stated, on behalf of employees, and if this isn't two ways. I guess what we need in putting forth a recommendation for change, meaning an amendment under section 8, which you talked about—you talked about "often under dubious circumstances," but I have to tell you that we have had examples from both sides. I'd like to give you a chance to clarify why you think this is unfair, cumbersome and time-consuming and why your recommendations will improve it for everybody; section 8, page 4.

**Mr Bachand:** I can probably cite examples where employees, unions and companies have been before the Ontario Labour Relations Board based on allegations of companies interfering, unions interfering, companies alleging such and processes taking in excess of a year and a half to two years. By the time the process is done, whether they become unionized or non-unionized, the employees who are actually onsite at the company, due to turnover, for example, are totally different people from when the process started.

What we're suggesting here is a system that would happen quickly, cut costs on behalf of companies, unions and employees in hiring lawyers to go through the fight,



and just put it to a vote and let the people determine whether they want to be unionized or non-unionized without all the fighting, and in a fair, quick manner.

1430

**Mrs Cunningham:** I was just trying to give you that opportunity to underline it was both sides you were speaking on behalf of.

**The Vice-Chair:** I'd like to thank Beaver Foods for making its positions known to the committee on this piece of legislation, and both of you for taking time out of what I'm sure is a very busy schedule to come down and very eloquently present those opinions. Thank you very much.

#### LONDON CHAMBER OF COMMERCE

**The Vice-Chair:** The next presenter is the London Chamber of Commerce. Welcome. Could you identify yourselves and then proceed with your presentation. Try to leave approximately 10 or 15 minutes for questions and answers; I know the entire committee would appreciate that opportunity.

**Mr Ed Holder:** Thank you very much. My name is Ed Holder. I am chair of the London Chamber of Commerce.

**Mr Jim Thomas:** And I'm Jim Thomas. I'm a vice-chair of the London chamber.

**Mr Holder:** Ladies and gentlemen, the London chamber has represented the views of business in London for 135 years. The chamber has 2,100 individual members, most of whom own or work for businesses in the city of London. The membership includes 1,200 incorporated companies, most of whom are smaller businesses that together employ about 70,000 people in London.

The London Chamber of Commerce welcomes this opportunity on behalf of our members and the London business community to speak to the reform of the Ontario Labour Relations Act, which has undergone second reading in the provincial Legislature.

As we read details of the legislation, we become increasingly disturbed that debate on reform of the act has resulted in polarization of the relative and traditional positions of business and organized labour. That was probably inevitable, as we are dealing with an act that governs collective bargaining, and collective bargaining is, regrettably, by its nature adversarial.

It seems to us that we need to look at the issue in a broader perspective if we are to speak effectively on behalf of all stakeholders in this process. In fact, the legislation is so monumental and so all-encompassing that we have provided this committee with a point-by-point assessment of the legislation in hopes it will be read and acted upon.

In the time allotted for this presentation we can only scratch the surface of all the components of the legislation that troubles business and should concern every worker in Ontario.

We ask that our written submission be accepted and entered into your records as the position of the London Chamber of Commerce. Our oral presentation to this committee will concentrate on several major aspects of the proposed revisions of the Ontario Labour Relations Act, and our focus will be on the following points: job loss;

restrictions of individual liberties; the economic implications, and what we call the next step. I'll be pleased to present my formal comments to you after this meeting just for your reference.

Ernst and Young prepared a study which predicted that should the changes to the Ontario Labour Relations Act go through it will result in the loss of close to 300,000 jobs. We have heard reports from the vested interests in the legislation that that forecast is aggressive. So I suggest to you, what if they're only half right? Do you, as members of our Legislature and all the people's representatives, want on your consciences the knowledge that you conspired in the obliteration of tens of thousands of jobs in this province? Will you, as members of our Legislature and all the people's representatives, accept the responsibility for the ensuing financial devastation of these same individuals, the same people who believe they have the right to work if the opportunity is there?

Perhaps what has not yet been figured out by the legislators and the vested interests in these changes is that the best welfare solution is a job. We've talked about the jobs that we lost because of this legislation; however, there is another constituency that everyone is ignoring, and that is the current jobless. Your heart should go out to those people. I'm speaking about the people who have not worked in the last six or the last 12 months or more, and the prospects of them working in the next six or 12 months look pretty glum. As members of our Legislature and all the people's representatives, will any one of you tell me what hope you can give the current jobless with this legislation? What personal commitment can you give to London's unemployed and Ontario's unemployed that this legislation will give them a job? Ontario's jobless are disenfranchised. No one is speaking for them, and I ask the question, do you care?

Let me tell you that the London Chamber of Commerce cares. In fact, in its policy report adopted universally by all chambers of commerce and boards of trade in Ontario at our recent annual meeting, when talking about the role of business in our provincial economy, the chamber of commerce stated, "Taking care of business means taking care of people." Please listen to those words well.

Let me make it clear: It is in the interest of Ontario's businesses to have an Ontario workforce that is employed, not a workforce on UIC or welfare that is left without hope and left without dignity.

Our second point addresses the restrictions of civil liberties on Ontario's workforce which will be legislated by the changes to the Ontario Labour Relations Act. Until this legislation, an employee had to deposit a nominal \$1 when signing up for a union. This we all know. This at least had the modest effect of having the employee ask what he or she was signing. Under this legislation, not even that dollar is required. Once you've signed your card as an employee, there's no cooling-off period, no refund. It's interesting that even consumers who purchase items, potentially under duress, have the right of cancelling this commitment if, on second reflection, they decide it is not in their interest. This legislation confirms that someone buying a vacuum

cleaner door-to-door has more rights than an employee in Ontario.

One thing I have never understood is why there does not need to be a secret ballot vote by employees when deciding if they should join a union. Currently, just over half the members of a working unit sign a card to say they will join a union, then the union is formed; no ballots, no votes. I find this appalling. I challenge any of our elected members of the Legislature to stand up now and tell us that an open-ballot process is fair and democratic. It is not. Would you accept being elected that way? I don't think so. It is fraught with the potential of duress, home visits and other imposing pressure tactics that deny opportunities of clear, free choice. That's suppression, not democracy.

Another clear violation of civil liberties of employees is denying the right to cross the picket line under this legislation. It seems the drafters of this legislation were more concerned with the vested interests of solidarity than the rights of the individual worker. Would any of you say to the employee who couldn't make a rent or a mortgage payment and lost their home that it's going to be okay? Solidarity is small consolation for kids left homeless or hungry and who depend on their parents' income just for basics. Don't deny basic human dignity.

The only thing that separates people and poverty is their ability to earn an income. Don't take away that right. On the day the NDP won its overwhelming majority, Gord Wilson, president of the Ontario Federation of Labour, blithely announced that organized labour was finally going to get its anti-scab legislation. He has certainly become a prophet; however, he is a prophet of doom who has sounded the death-knell for employee rights. How dare any of us refuse an employee the right to work?

This legislation underscores a clearly vested position that the only good worker is one who belongs to the union movement, and that's not right. Let me tell you that Ontario businesses are gravely concerned. These changes shift the balance of power from a delicate balance of negotiation, of give-and-take, to one heavily weighted in favour of unions. We will never know the full opportunity/job loss from companies that won't set up in Ontario or have moved or will be moving their companies from Ontario because of the tremendous instability and imbalance caused by the fear of this legislation.

1440

In Canada, in Ontario, we have suffered the worst economic recession in decades. The reality is that many businesses have gone bankrupt and many thousands of employees have lost their jobs, and there's not a great likelihood that these jobs will return. So can any of you tell me what the economic impact of this legislation will be in Ontario? Can any of you tell me how many jobs, aside from union organizers, will be created? If you are struggling with the answer, then there's all the more the tragedy.

Business capital, which is small business and big business, flows as a function of confidence in its ability to be profitable, to create wealth and have an employed workforce able to purchase its products and services, but business resources today are strained as never before. This is the result of world recession and global competitive pressures.

Ontario does not have a divine right of sustainable employment. That right must be earned by sending clear signals to the business community that Ontario wants business to invest and to stay here. Business investment and confidence is what allows Premier Rae to call Ontario the economic engine of Canada. Please don't screw it up. Times are tough enough.

Let me provide an example of the implications of this legislation. Suppose you are a company that depends on suppliers, as we all do, to supply our products and raw materials. Because of economics, companies are unable to maintain large inventories. Therefore, they depend on suppliers as never before to deliver materials on a timely basis. Tell me what you think the natural outcome would be if, at the time you need your inventory most, your Ontario supplier was on strike and unable to provide your necessary goods. The reality, as you well know, would be to find another supplier. The other reality is that they would not be looking for that supplier in Ontario; they couldn't afford the risk. So why are we risking the jobs of workers and the viability of business in Ontario? Ladies and gentlemen, that's not fearmongering; that's reality.

What is the outcome for Ontario's suppliers in these positions? Economic loss and employee job loss. For large companies, this will cause severe strain and hardship. For our smaller companies, it will wipe them out. We are all aware of companies that, when developing expansion plans, are setting up in the United States to protect their customer base. Those jobs should be in Ontario, not the United States. Your challenge and mine has to be to keep those jobs in Ontario.

Finally, I want to talk positively about something. Call it the next step. The London Chamber of Commerce believes this legislation must be withdrawn. Instead of enacting bad legislation in haste, this whole issue must be considered in the context of a complete and thorough economic impact study. We must have equal representation from government, business and the workforce, and task these parties with recommending credible changes to the Labour Relations Act based on consensus.

Our NDP government is in a unique position, with its labour support, to draw all parties together to find that consensus. That's your job; you should be doing this. This is your great opportunity to show leadership. Ontario's citizens, our taxpayers, are tired of partisan bickering and economic uncertainty, so let's get on with the job. Ontario's workers and Ontario's business community deserve no less.

**Mr Phillips:** Thank you for your presentation. I think, in the opening comments, you indicated that the result of what's happening now is a polarization—I think it was you who said that—and I very much agree with that. Tragically, we do have a polarization taking place between the business community and the organized labour community.

I'm personally very worried about the economic future of the province. I said earlier to other speakers that the unemployment rate in the province right now is at least 13%. Among our young people it's 25%. The plant closures, rather than slowing down, are actually increasing. At the end of July this year, they were about 30% ahead of the



same period for a year ago, about 45% ahead of the same period two years ago. I am extremely worried about the economic future.

I think, on the other hand, the government members would say: "Listen, the business community is simply pushing its own agenda. They're grossly exaggerating the impact of this. These are minor changes that will have only minor impact. Once they're passed, the problem will go away." That's our problem. I happen to think, as I say, that it will have a significant impact, but we won't know that for two or three years.

It's a long-winded way of saying that the chamber—can you give us any specific examples? I was appreciative of the Woodstock chamber that spoke an hour or so ago because I think it had some specific examples from specific businesses. Does the London chamber have anything that might be helpful to all of the committee members in terms of the impact this might have?

**Mr Thomas:** Maybe I can respond to that. One of the problems with any individual company responding to its plans is the overwhelming aspect of government intervention. If you have a surplus in your pension plan, if you have other administrative dealings with the government, you don't know how it's going to wind up. There's nothing but grief associated with a firm announcing that it's going to leave or that it's making investment in other jurisdictions.

I can only say that I have recently met with a group of business people that are overwhelmingly in favour of this legislation. They're the business development officers from Michigan, Ohio, New York, Tennessee and Kentucky. They really think this is great legislation because every week there's someone from Ontario coming down looking for a plant site.

**Mr Offer:** Thank you for your presentation. I share the concern of my colleague about this polarization. Certainly we're seeing that clearly, and in fact a little bit more evidently, as we proceed through these hearings. The interesting part of that is it isn't just a "business on one side, labour on the other" polarization. We're hearing concerns from school boards, municipal hydro services, municipalities and children's aid societies. They also have concerns with the legislation.

None the less, there is this polarity of some intense dimension that is forming. When all is said and done, do you believe that one of the ways this chasm could be narrowed is if the government would say: "Let's just do an economic analysis on a sector-by-sector basis. Let's look at what we think the impact of the legislation will be before it's enacted into law?"

**Mr Holder:** There are a couple of comments we really have to respond to to give you an appropriate answer. I think clearly an economic impact study that has not been done must be done. This is too grave an issue, ladies and gentlemen, to just get into an ideological discussion. There is too much at stake. At stake is the worker in Ontario and the viability of business in this community, and I don't mean just the community of London but the whole province. In the sense that Ontario is that economic engine for

the country, imagine the impact on the country on a much broader basis.

There are a lot of mentalities that have to be overcome. The economic impact study is simply one issue, but it's the major issue to try to determine the sense of job loss and fiscal impact of this kind of legislation. That's critical and it must be done. But I think the other concern has to be the mentality of all sides on the issue. We talked about the adversarial nature of negotiations and collective bargaining.

It was very interesting that at that same meeting where the chambers of commerce and boards of trade across this province talked about all the stakeholders we had the Windsor District Labour Council president come in and say: "We are not the stakeholders. We will come to the table with our view, you, as business, must come to the table with your view, and we'll fight it out there." I'll tell you, that's a pretty sad statement. There are a lot of things that must be overcome if we're going to be in a better position to negotiate the future health of this province.

1450

**Mrs Cunningham:** Thank you very much for your presentation today. I think my colleagues should know that the London chamber has been most helpful to all of us at Queen's Park as we do our best to represent the citizens of London.

I only wanted to add one fact today, that you should know that since 1953 we are witnessing the lowest level of spending in a budget in Ontario, and that level is 4.9%. One third of that goes to service a debt which we have left our children and to pay people who are unemployed; one third of the increase during these tough times goes to service a debt and pay the unemployed.

It's a dreadful situation we find ourselves in and we're not shocked to hear that today, once again, a business community, representing a cross-section of individuals and employers and employees in London, is advising us to stop now and reassess what we're doing.

I wanted to focus on page 6. It's something that we're happy you've given us such good specifics and we'll be looking at them. You are talking here about the Ontario Labour Relations Board, and again I'm going to emphasize complaints we've had from what appear to be both sides. Employees and employers are not happy with the operation of the Ontario Labour Relations Board.

You've given us some specifics, but I'm interested to know that you're not recommending a legislated solution. I wondered if you could just speak a little bit to this issue right now because I notice you're talking about again probably an impact study on your recommendation before we move forward. I'm wondering if I'm correct in assuming that's what you mean.

**Mr Thomas:** If I could respond, I think that's exactly right. It's important before we make any changes that the economic impact be studied very carefully in terms of the cost to government and increasing bureaucratic levels of activity. Perhaps many of the solutions are administrative in nature and can be resolved without legislation and can be best done by a tripartite study group to take a look at it.

**Mrs Cunningham:** Thank you for that. I do thank you for your presentation. I do appreciate the fact that you have focused on what is the real problem in this province, and that is unemployment. We have thousands of people who are without work and are continuing to lose their jobs and, unfortunately, Bill 40 does not address that issue. It will not create one new job. In fact we're hearing over and over again it's going to lead to further job loss in the province.

How do you feel the government can correct that particular situation, if what we are looking for is the right of every individual to a job? What should this government be focusing its attention on at the present time?

**Mr Holder:** The first thing it must do is withdraw Bill 40. I'll say that again in case anybody didn't hear. You must withdraw Bill 40. It becomes the starting point. If you do that, then business and the workforce and government can sit down and talk as equals to see if in fact we are representing the best interests of all instead of very specific vested groups. That's what this issue is about.

I asked a lot of questions in my presentation, and I'm not sure that I heard anyone say how many economic jobs. Maybe I could get a show of hands—Mr Chairman, I'm not trying to be flip on this—but can I ask—

**Mr Hope:** But you are.

**Mr Holder:** —well, less than some maybe, but perhaps I can ask the question, sir: Can anyone please tell me how many jobs will be created as a function of this legislation? That's a troubling question, but it's one I pose to you, if I may, in return.

**The Vice-Chair:** Thank you, sir. Mr Winninger.

**Mr Winninger:** I would respectfully submit that this legislation is designed neither to create nor to diminish jobs. We have several other programs designed to create jobs and I think we're doing a good job.

My question to you—and I would preface this by saying that I too agree that the local chamber of commerce has done a good job in availing itself of the opportunity to meet with the local members to convey its views—but given the fact that large corporations, like GM, like Ford, like over 50% of the domestic and foreign investment in Canada, seem to feel Ontario is an okay place to invest and certainly there are studies that show that unionized workplaces tend to be more productive than not, I wonder why there's so much concern in the business community that enhancing the right to join a union is going to cause an outflow of jobs.

I'm particularly interested in hearing from Mr Thomas, because having met with him before I know that he used to be down in the southern United States and now he's up here, and I wonder, if it's such a bad climate to invest in, why Mr Thomas is here and not there.

**Mr Thomas:** I like cold weather to begin with. Let me say one of our chief concerns about the legislation is that it imposes unionism on people who do not necessarily want it. We think in all cases that individuals should have the right to vote in a secret ballot at the worksite so that everybody in the worksite has an opportunity to vote. That's the

only fair and democratic way to respond to a desire to belong or not to belong to a union.

Your comment about whether Ford and GM continue to invest in Ontario is quite interesting, because I think a stay of execution in Oshawa is not exactly a vote of confidence. There is no question there's been a good investment in the Ford facility, but I don't think any of those investments offset the jobs that have already been lost and are going to offset the jobs that are going to be lost in the future because of this legislation.

**Mr Winninger:** We've also got companies like Fleck that are coming back to Ontario; and creating jobs in places like Tillsonburg.

**Mr Thomas:** Yes, it's good to see that some jobs are coming back, that's nice, but we're still losing more and this is not the kind of vehicle that's going to cause us to have jobs created in Ontario, it will lose jobs.

**Mr Winninger:** Mr Chair, I'll have to defer to my colleagues. We're limited as to time.

**Mr Holder:** If I may make another comment that adds to it, and I think this becomes as much the issue. We talk about the job loss. Mr Winninger talks about some of the job creation associated with government. Quite frankly, we think job creation should come from the private sector. That's the primary thrust where jobs should come from because those are sustainable and long-term and are not borne on the backs of taxpayers. If they can be sustainable and real jobs, those are ones that will last hopefully for years and years and years. Those are meaningful jobs, sir, and those are the directions we want you to take to allow business the environment where it can create those jobs.

**The Vice-Chair:** Thank you very much. We'd like to thank the London Chamber of Commerce for its views and both of you for presenting them. Your presentation and written submission will indeed become part of the record of these proceedings. Thank you both very much for taking the time to appear here today.

**Mr Holder:** Mr Chairman, I will give you now, if I may, those formal comments that I made in my speech for distribution. With that, the Goderich and district chamber did not have the opportunity to be a part of the program and have asked me to formally submit their presentation to you as well.

**The Vice-Chair:** Thank you.

**Mrs Cunningham:** Mr Chair, may I ask a procedure question here with regard to the last comment that was made?

**The Vice-Chair:** Yes.

**Mrs Cunningham:** We had two people, or three, here yesterday that weren't able to give their brief. When we found out that people had cancelled here in London, because this afternoon after I leave I have to hear two more that couldn't make their briefs, is there no mechanism for bringing one of those people forward? They have already physically shown up and we had a cancellation this afternoon. Is there no mechanism? I just want an answer, because if the slot is there, why not.



**The Vice-Chair:** The subcommittee, in developing the process we have used throughout the hearings, unanimously agreed to no walk-ons in terms of no extra presenters.

LONDON AND DISTRICT  
LABOUR COUNCIL  
ST THOMAS AND DISTRICT  
LABOUR COUNCIL

**The Vice-Chair:** The next presenters are the London and District Labour Council. Could you come forward. First of all, welcome, identify yourselves and proceed with your presentation. If you could leave about 15 minutes for questions and answers, the committee would appreciate it.

**Mr Jim Ashton:** If I might, Mr Chair, first, my name is Jim Ashton. I'm president of the Canadian Auto Workers Local 27 and, in particular, president of the London and District Labour Council. To my right, although not necessarily politically, is the president of the St Thomas and District Labour Council, Steve McMurdo, who is also a member of Local 1520 CAW.

I do not have a written presentation. I will try to keep my remarks short enough to allow some time for Steve to make his presentation and hopefully answer your questions.

I did catch a bit of the chamber's presentation today and I caught the presentations of other business groups and I think we really have to start here with a little reality. The reality is that we hear business talk about a number of concerns it has, but let's be realistic, let's look at business's record.

In the 1870s they opposed child labour legislation because they felt it was better that children be down in the mines rather than out on the streets of our cities because it was much healthier and much safer and, of course, there was the old competitive bugaboo that if in fact we legislate that type of thing, we're going to end with the situation of being less competitive.

1500

In the 1870s as well, the Canadian government legislated the first Canadian labour act and they opposed that. In 1914 they opposed the suffragette movement in this country and the right of women to vote, and if you quote some of them, they didn't want women filling their "pretty little heads" with politics and matters other than home and work. Again, the competitive issue comes to the fore when we talk about 1917. They opposed the Workers' Compensation Act because that was going to "turn the province into a group of hypochondriacs."

They opposed the universal old age security plan in the 1930s. As one businessman said to his workers, "You have an obligation to put away 10% of your pay every year so that you're not a drain on the betters of your society." I guess quite clearly who those betters were—they certainly weren't the working people.

They opposed unemployment insurance. They opposed social assistance. In 1948 they opposed the introduction of the Ontario Labour Relations Act. As inoffensive as that was then, they opposed that. In the early 1960s they opposed medicare. Recently, of course, they've again gone after women because they oppose pay equity; they say it's

too costly to implement. They oppose employment equity. The reason we have to deal with both of those groups, quite frankly, is because they have never done their job in the first place.

The reality is that business has never, ever fought for or stood behind any piece of socially progressive legislation that we've had in this province, or indeed in this country. They came here and they've gone around the province and said, "Now's not the time." They've had 125 years and it has never been the time, and I would suggest to you that it never will be the time as far as they're concerned.

If one listens to our friends in Ottawa and their corporate agenda and those business people who support them, they want to roll back the clock. They want to do away with medicare. They want to do away with old age pensions. They want to do away with a number of things that we now accept as part of the social fabric of this country. I don't think their hue and cry about what's right or just—they've never been there. In 125 years, as I said, they've never been there.

One has to look at the business credibility. They come and they talk about jobs. In the mid-1980s they told us, "Hey listen, if you support the corporate agenda, if you support the federal Conservative government, we're going to have jobs, jobs, jobs," and Mulroney echoed that to no end across this country. And what do we have? We have less jobs, jobs, jobs. We have the longest unemployment lines we've had in 60 years. That wasn't because of the Ontario Labour Relations Act; that's because business convinced the population of this country to follow its agenda.

Then what happened? Then they told us nirvana on earth was going to be the free trade agreement. What did we get out of that? We have people sleeping on the streets across this country. We have the longest lines we've ever seen in front of food banks. We have the largest numbers of people waiting for social assistance that we've ever seen. And again they say: "But trust us this time. We've got it right this time."

The Canadian public and the people of Ontario cannot afford to listen to business one more time because then nobody will have a job. I believe this NDP government has put forward a rational plan that makes sense in the long term to create jobs in this country.

There are a couple of other things I'd like to deal with before I get into the economics of that. One is a statement from the leader of the Conservative opposition which appeared in our London Free Press just a couple of days ago. I doubt he wrote it, because it really looked to me like he'd gone to the citizen's coalition and signed his name to it. Having said that, he made a number of points, and one was that this legislation was a payoff for the support of union bosses. I take exception to two things in that. Unlike most people in the business community, I'm elected by over 5,000 of my members by secret ballot every three years, and by 25,000 people in this London and District Labour Council, so I don't really appreciate that.

Let me be quite blunt. For any of you who bothered to read back in November the original discussion paper and followed that through in February and saw what kind of legislation we now have in front of us, if that's what a

payback is, I'd be sad to see what would have happened to us had we done nothing for that party.

We talk about paybacks. I heard David Winninger mention Fleck. Let's look at paybacks. In 1978, 500 women asked for one thing: the right to have a union. What did they get from the Conservative government? Nothing. They stood and they worked on water-filled floors, working on electrical equipment, and they wanted one thing: a union. Did they get it? No, they didn't. They sat in cafeterias where rats ran across the floors and on to the main floor where they worked, and what did they get? You want to talk about paybacks? What they got were 500 riot-equipped OPP officers under the support of this provincial government, to pay back who? Certainly not the workers.

I'd also like to talk a little bit to my good friend Dianne Cunningham, who in her recent remarks in the Legislature in terms of attacking this bill made a number of points. She talks about my local union, which is really why I want, Dianne, to talk to you about this, because you point out that four years ago Form Rite employed 1,000 individuals directly in and around the city of London. You make the point that three years ago it was unionized by the CAW and that here we are in 1992 and we only have 200 people left in the whole province. Unless Form Rite is paying dues to make the union feel good, the last time I looked we had 380 dues-paying members in Local 27 as of the month of June, so I think your numbers are just a bit off.

You say the company talks about free trade in the auto industry. Well, when the hell did that ever happen? There never has been free trade in the auto industry worldwide, with the exception of the auto pact which was introduced in the mid-1960s.

The reality is that since we organized that plant in 1989 we've had two collective agreements and less than a 24-hour strike and that in fact the company closed its other operation, which was non-union, and moved that work into the unionized plant in London.

The other reality is that I have talked with company officials. We, as a union, have talked with company officials, as have municipal leaders in this city, and surprisingly enough, in neither case did they mention it was because of the union. They said it was the federal government's high-interest-rate/high-dollar policy that gave them no option but to open up another facility in Tennessee. Were they lying to us? I don't know, but that's what they told us, and at a different meeting that's what they told the leaders of this municipality, so I really have some problems with that.

The other thing I have a problem with is one of the statements in here. Business says, "You can have so much more success in Southeast Asia, Central America and Mexico." Is that what this is all about? Is that what business wants us to turn down to, a Third World economy?

Does anybody understand the reality of economics in this debate? Is that really where we're going? I would certainly hope not. Business? How can we believe they're credible? Ford Motor Co gets up and says, "This is going to cost investment," and two-thirds of its fiscal 1993 investment is in Ontario.

General Motors continues to invest and in the last year has invested one-third of a billion dollars in Quebec, a province that already has the legislation we're now talking about. Recently we had a freightliner plant open up just outside London, we have a German company going to build airplanes, and yet we're told we're going to lose thousands and thousands of jobs. Absolutely ridiculous, as far as I'm concerned, and I think the follow-up to those statements has proven quite clearly that business cannot be trusted, nor can it be credible.

Let's look at economics. I'm not an economist; I'm just a working guy who got a little bit up in the union. But I did take one year of economics in university and I learned that for every dollar you put into the economy, it generated six or seven. Now I'd just like to take you to the kind of situation we face today. We'll take an average worker who makes \$12 an hour. He takes home \$100, \$120 in his pocket every week, so he has disposable income. He goes out to the restaurant, he goes out to the movie theatre, maybe he buys some extra clothes, maybe he looks for a new house, maybe he looks for a new car. And who benefits by that? Small and medium-sized businesses.

Yet the business agenda is to say, "Let's go to how they are in Southeast Asia; let's look at what they're doing in Mexico," places where these people can't even afford enough to buy their own food and clothes, let alone buy anything they produce. Yet this is where we're going.

Take that same worker in the province of Ontario who follows the corporate agenda, gives back benefits, gives back wages. At the end of the week he's making \$8 an hour and he's got \$10 in his pocket. Is he going to the restaurant that small businessman owns? No. Is he going down to the corner store to buy those shirts and pants? No. Is he going to the movie? Not likely. Is he looking at a house? Only in his dreams. Is he going to buy a car? Fat chance. I don't for the life of me understand how the chambers, which are made up of small and medium-sized business, not the big corporations, can ignore the reality that unless the middle class—and most of the middle class is made up of working people in this country—how they expect that they're going to survive if we don't.

I believe the government's right. If one looks across the western industrialized world, the countries that have fared best during this recession, that have shown the smallest or no increase in unemployment and that have done economically the best over the last 10 years are those countries with the largest and the strongest union movements. Why is that? Because they put money into workers' pockets. They allow the money to flow through the system. You can't do that in Mexico. You can't do it in Mexico when the government-controlled unions negotiate your next agreement, which includes free cardboard and tin for your house, no wage increase. You can't do that, and I can't understand for the life of me how business can't understand it either.

1510

We are not here asking that everybody who wants to join a union has the right to join a union. We're asking for that right; we're not saying they have to. That's everybody's choice. That's a democratic choice. That's the right



of each and every worker. But in a democratic society that people have fought and died for—and I would include my parents and your parents—that ought to be the right. Why do those people who support business, and business, constantly fight against those?

I would suggest to you that we in the labour movement would like to work with business too. We have different agendas and we all recognize that, but if we're going to look to the future of this country and of this province, then unions, labour, business and government have to work together to develop an economic and an industrial strategy. By doing that, we can guarantee the long-term jobs and the long-term economic prosperity of this country. If we cannot be accepted as equal partners and we continue down the road we have with business trying to turn us at every corner, then I would suggest to all of you that the economic future of this province rests on their heads and the heads of those who support them.

I'd just like to make one more comment. The one area that seems to be getting the most play is, of course, the anti-replacement or anti-scab legislation. I look back over the last 15 years in this province, and I'd like to go back to when it was first instituted. How long do we have to see women pushed around on picket lines? How long do we have to see people run over by vehicles, either by company goons or by hired private security companies? How long do we have to see what happened in Quebec, where two workers were shot and killed? How long do we have to put up with that before the people who are properly elected by the people of this province realize that we are closing out the 20th century and that it is time for everybody to be treated with equal rights, with dignity and with the free and open choice to decide their future?

I thank you for the time you've taken to listen to my comments. At this point I would turn it over to my friend Steve McMurdo.

**Mr Steve McMurdo:** I'm just sorry my leg wasn't long enough to kick you, so I'm going to miss the whole preamble. I'm just going to get into a couple of examples.

The labour council that I represent is in Elgin county, and Elgin county's been the site of two bitter and costly labour disputes in the last two years.

The first: On March 22, 1990, 80 members of Local Lodge 2729, International Association of Machinists and Aerospace Workers, commenced legal strike action against Jaeger Canada in St Thomas. Approximately four weeks into the strike the company began to hire replacement workers. They were picked up and transported across the picket lines in company vans. Every morning and at night at least two, sometimes four, police cruisers would come and escort them across the picket lines. Needless to say, when replacement workers are transported across picket lines, confrontations will follow. That's exactly what happened, and that confrontation led to charges being laid against both the corporation and the workers.

The company also sought an injunction to limit the amount of pickets on the line so it could freely transport these workers across the line. They lost the injunction. The end result was that both parties spent large amounts of money and legal fees defending various charges and the

taxpayer picked up the tab for the police presence. Finally, at the conclusion of the strike on August 26, all the replacement workers were released and the regular employees returned to work.

The second example began on December 10, 1990, when 45 members of Local Lodge 1703, International Association of Machinists and Aerospace Workers, commenced legal strike action against Walterscheid Agmaster, located in Rodney. About six weeks into the strike, the company began hiring replacement workers. At any one time during the strike there were about 22 replacement workers taking the place of the employees.

The same scenario happened here as at Jaeger. The company rented vans, picked up the replacement workers and transported them across the picket lines. The Ontario Provincial Police detachment in Dutton would come every morning and every night to escort the replacement workers across the picket line. The company also sought an injunction to limit the pickets, it cost both parties a lot of money in legal fees and again the taxpayer picked up the tab for the police presence. This strike concluded January 27, 1992, when the regular employees returned to work and the replacement workers were released.

The example that probably sticks in most people's minds, not too long ago, was the example of the post office, under federal jurisdiction, with the hiring of scabs and moving work from one location to another with buses, even helicopters, at a cost of millions of dollars to Canadian taxpayers. It's enough to make any right-thinking individual know that these draconian tactics are a throwback to another age. Therefore, we feel that strict limitation should be placed on corporations' ability to move work from one location to another, and that non-bargaining-unit employees also be excluded from doing bargaining unit work.

The existing labour laws have been used for decades to effectively deprive thousands of Ontario workers of their collective rights. These workers have been denied their democratic right to join unions by the bureaucratic use of legal technicalities. Similarly, we need reforms that will prevent employers from intimidating, coercing or otherwise interfering with workers when they choose whether or not to join a union.

It's astonishing to me that the business community is up in arms over these relatively modest changes, considering that virtually all the initiatives are based on standards in effect in other jurisdictions. As Jim mentioned, the chairman of the board of Ford Motor Co recently said: "The Ontario NDP is doing everything possible to put roadblocks in the way of economic recovery. Frankly, entrepreneurs are afraid to invest or expand in Ontario." Obviously Ford no longer considers itself an entrepreneur, as it just announced the investment of \$2 billion in the Ontario economy.

Ford's made millions in Ontario with the use of unionized workers. At the St Thomas assembly plant, for example, whose employees are members of CAW Local 1520, since the plant first opened the number of employees has more than doubled but the production output has more than quadrupled. I'd like to know why the Ford Motor

corporation wants to deprive other employers of the benefits of a unionized workforce.

Corporate Canada keeps calling for a level playing field, but what they mean is the ability to transfer assets from one place to another. When I talk about a level playing field, I'm talking about transferring corporate power to ordinary working people of this province. Labour reform is an act of confidence in the people of this province. It's time.

**The Chair:** Thank you. We have three and a half minutes per caucus.

**Mrs Cunningham:** First of all, to respond to the direct concern you had, Jim, with regard to whatever I read into the Legislative Assembly, maybe you and I could talk about that later. Anything I read in that speech that day was quotes from letters sent to me. I have the letter I read in, but I don't have what you said in front of me, so I can't refute what you said, but we can talk about that in the future.

One of the things I think this legislation is all about is improving the workforce for both employers and employees. I would guess that's what you're both here to talk about. I had hoped from the very beginning that that was a non-partisan issue, but I am very disappointed in your speech today, because I think you're one of the best people to represent the labour movement I've ever had the pleasure of working with. You didn't put your comments in writing. I'm not going to be particularly negative about that, but it's very hard to refute them.

But I am going to refute them in this way: You talked about child labour legislation. You talked about the suffragette movement, you talked about workmen's compensation, you talked about health care, you talked about the Labour Relations Act, you talked about pay equity.

In this province today, which in my view, in spite of the difficult times we're in, is the best province in the best country in the world to live in, we have all the things you mentioned. Women vote. We do have laws to protect our children when it comes to the workforce. We have a wonderful medicare system, however you want to put it. We have a good school system, and this is still a wonderful place to live and work. All those things have happened in this country and in this province without a socialist government. So if you want to get partisan, I can too. Don't ever forget it.

Interjection.

**Mrs Cunningham:** Never mind; you'll get your chance.

Today in Ontario, in the last month 23,000 more people lost their jobs. This budget was the lowest increase in spending because of the most difficult times we have. You heard me talk about some 4.9%, the lowest amount of money any government has had to spend, except for 1953, since the beginning of government in Ontario, and one third of that went to people who are unemployed and to debt.

I ran for my seat in London North because I was worried for my children. I try to deal with issues in this riding in a very non-partisan way, and I think you probably

would agree with that. My office is open to anybody and you can come in and talk to me about what your concerns are. People write to me, and of the more than 380 letters I received on this law, only two of them were from what I would call the union movement. That doesn't worry me very much, because I'm concerned, as I said yesterday to the service workers, about their concerns. But I don't think—

**Mr Ferguson:** Mr Chair, isn't this supposed to be time for questions of the delegations?

**Mrs Cunningham:** You'll get your chance.

**Mr Ferguson:** I didn't come to London to listen to Dianne Cunningham—

**Mrs Cunningham:** You've only been here twice today. You're not here in London to listen to too many people, so don't moan at me.

**The Chair:** Ms Cunningham has three and a half minutes to do with as she—

**Mrs Cunningham:** It's my turn to talk. Jim took me on, and he's used to this, and I'm going to give it back to him. In the end, we both somehow agree on solutions most of the time. Is that not correct?

**Mr Ashton:** I know, but if you keep getting me mad like this, you're going to lose my vote.

**Mrs Cunningham:** Well, look, you got me mad too.

Mr Chairman, I just have to tell you that I had expected some solutions to problems that would solve everybody today, and I'm very disappointed. It was very difficult for me not to say what I just said. It's in good faith, and if Jim would come into my office so we can have a reasonable discussion about the concerns of my constituents and how he can help me solve those problems in the Legislature without reading their letters—I don't know a better way to do it. I'd just like to say that today. As I was criticized, I'm just making my point.

**Mr Ashton:** Do I get to respond to any of this?

**The Chair:** You can respond or not respond, as you wish.

**Mr Ashton:** Let me just say briefly, Dianne, I think the problem I have, and the point I made in terms of the business community—it's not to say that there aren't people in the business community, and I would hope the majority of them, who are not opposed to child labour legislation or the Canada pension or old age pension, and I'm not accusing you of being any of those things. I think we have to look at the mentality and what has happened with the business community and those who support it over the last 120 years. The reality is that they've had to be pushed and dragged, kicking and screaming, to make any kind of social change, and I think quite clearly that was my point.

1520

In terms of the arguments you make about whether you receive letters or not, Dianne, I'm not going to argue with you that you didn't receive those letters. I'm saying, though, that unfortunately what has been happening across this province is that much of the rhetoric has ended up being hysterical and very little of it has been based on fact.



It's fine for you to sit there and say this, it's your right to do it, but my point was that whoever gave you this information, it's totally inaccurate. If we're going to have a fair and open discussion on what the impact of labour legislation is going to be, then we ought to have the right information. That was my point.

**Mr Winner:** I found both of your presentations very convincing. Unlike Ms Cunningham, I found your presentation, Jim, to be no more partisan than any other presentations I have heard today, particularly the one that preceded it.

**Mrs Cunningham:** Bull.

**Mr Ashton:** I tried to make it unbiased, David.

**Mrs Cunningham:** Unbiased? At least recognize it.

**Mr Winner:** Just for the record, Mrs Cunningham says, "Bull."

**Mrs Cunningham:** He mentioned the Conservative Party of Ontario. At least recognize it.

**Mr Winner:** I just wanted to clarify a point with you, Mr Ashton.

**Mrs Cunningham:** You can kiss your seat goodbye next time, Winner.

**The Chair:** What did you say?

**Mrs Cunningham:** I said he could kiss his seat goodbye next time, just like I said to the Liberals, and it worked.

**Mr Winner:** I wanted to clarify a point that was made by Mrs Cunningham in Hansard about the outflow of jobs from Form Rite. My understanding was that the jobs in the plant that was closed down were non-union jobs and the plant that stayed open was the union plant. Can you comment on that?

**Mr Ashton:** At the time we went about an organizing drive—and it goes back to the point of organizing in general—the company used all kinds of tactics, including hiring private detectives to work as spies in the workplace. We've well documented that and we know it happened. They did everything they could to thwart it.

There were two plants in the London area. One was in Strathroy, I believe, and the other one was of course the one we organized in London. Within the first year after organizing the plant in London and after having reached a collective agreement, they closed the non-union operation down and moved the work to the London plant. We still have close to 400 unionized employees there; I can't tell you how many non-union are there.

It's very difficult when you get into a free trade agreement, when you get into all these situations. You can blame the union, but the reality is that we have two problems, and I say this honestly; that's what we were told. It was the economic high interest rates and it was the cost of the Canadian dollar which made it difficult, because most of their exports are going to the US, number one.

Number two, as one looks at General Motors—a comment was made here by somebody from the chamber—last year in Canada, General Motors, I believe, made \$93,000 profit per worker in Canada. They lost almost triple that in the United States, if I'm not mistaken. We may lose some

jobs in St Catharines, but let's get realistic. We said this would happen under the FTA. The political pressure in the United States is not going to allow Canadian workers to remain unscathed. Quite clearly, Stempel said that when he made his announcement, that Canadians, unfortunately, are going to have to share the pain.

It's not a question that our workers don't do the job. Ford Talbotville speaks for itself; Oshawa speaks for itself. It's not our workers, it's not the fact that they're unionized; it's a number of other issues that we cannot control, although you, as a provincial government, have some influence, and of course our counterparts. I'll shut up.

**Mr Offer:** Thank you for your presentation. I'm going to ask you a question that is actually on the bill.

**Mr Ashton:** You mean you actually read it?

**Mr Offer:** I'm glad there's not a polarity you wish to start. I'm going to ignore the demeaning comment made, but I have a concern with that—maybe not demeaning, but surely patronizing.

In an organizing drive, we have heard a number of concerns brought forward that sometimes the activities of the employer may work to intimidate or coerce an employee to make a choice that he or she may otherwise not have made. In fairness, I'll add that we've also heard the same thing on the other side. I know it really wasn't brought forward in your presentation, but I also know that you've probably had some experience in organizing. Is there anything in an organizing drive that an employer could say, could express as his or her opinion as an employer, that in your opinion would not be viewed as something intimidating or coercive to the employees?

**Mr Ashton:** I think one has to start with the general premise that I don't think any employee would be surprised to hear the company say, "We really don't want the union here." When you get past that, what I've seen in organizing drives—I would assume, in most cases, intentionally—I've seen captive audiences in cafeterias where the riot act is read. I think most lawyers nowadays would advise their clients that that's the last thing you want to do. But it's really done through coercion, in that, "If you're one of those, you're not one of us, and your future in the plant could be jeopardized." I've heard that a hundred times. The other thing, I suppose, is that it goes around: "The plant's going to close. The plant is going to be shut down." Those are the basic types of intimidation workers get.

Most companies aren't that stupid to try captive audiences, they're not dumb enough to go up and threaten somebody, but it is the intimidation surrounding people. You've got to understand, in this province, and I think people tend to forget this, they have this idea that unions are out knocking on everybody's door, saying, "Hey, where do you work?"

Interjection.

**Mr Ashton:** Just let me finish my question. "Where do you work?" and then we start going around talking to everybody. We are approached by employees.

Interjection.

**Mr Ashton:** Then what do you want me to answer? What can an employer do? I don't think he has a right to do anything. It is a democratic choice that the workers have a right to make.

**Mr Offer:** You didn't answer my question.

**The Chair:** I say thank you to you, Mr Ashton, for speaking here on behalf of the London and District Labour Council. I also want to say thank you to Steve McMurdo, here on behalf of the St Thomas and District Labour Council. We're pleased that you had the opportunity to share the time with London and district. You've played an important role in these proceedings. You've obviously made comments which have provoked members of the committee, and far be it for me to say that's not a good thing. We're grateful for your attendance here today. Please keep in touch. Take care and have a safe trip home.

1530

#### CAW CANADA, LOCAL 1451

**The Chair:** The next participant is CAW Local 1451, if they'd please come forward. Have a seat. Your written submissions are going to be distributed and form part of the record by way of becoming an exhibit. Please tell us what you will. Try to save at least the last 15 minutes. You can see how valuable that time frame is for questions and exchanges. Go ahead, sir.

**Mr Larry Aberle:** My name is Larry Aberle and I'm with Local 1451 in the CAW. I would like to thank you for this opportunity to address the committee on the importance of progressive labour reform in Ontario. Our CAW local supports these changes and wishes they went further.

Our society and our economy are changing, and with that our workforce is changing. I want to use my local as an example of trying to reinforce this need for change, because I'm not sure people are understanding this.

CAW Local 1451 represents about 1,300 workers at Budd Canada Inc. We produce frames for the automobile industry. In the past, labour relations were very turbulent. Although Budd Canada Inc was one of the highest-paying places in the Waterloo region, the turnover was very high. For example, of 300 people hired at approximately the same time as myself, only 27 are still members of the local. In the 1970s there were large numbers of wildcat strikes and grievances. Health and safety standards were lax. There were major quality problems. The company and the union agreed on almost nothing. However, the company was very profitable.

Today there is recognition that the ways of the 1970s would kill the plant. Labour relations still have a long way to go, but they are maturing. Because of the economic conditions, turnover is low and we have members on lay-off. We did have a strike the last time the collective agreement expired, but not the time before that. It has been a long time since there has been a wildcat strike. We still have grievances, but not as many.

Safety standards are now maintained by a full-time health and safety representative, and quality has become dramatically higher. The company and the union still disagree on a large number of issues, but over time we have

found areas where we can work together. As a joint venture between our local and Budd Canada, along with the Waterloo county school board, we launched a very successful program for upgrading many of our employees so they could receive their grade 12 high school diploma.

During the last few years, we have run energetic United Way campaigns. The union and the company have worked on health and safety issues, employee assistance programs, specifically in drug and alcohol abuse, and together we run a number of social and recreational events. The most recent was our 25th anniversary celebration, and the company has still remained profitable. In fact actually I believe today they issued another statement indicating they're still a profitable company.

The future is unknown, but major adjustments will still occur. I believe any company that fails to actively involve employees and the union in real and meaningful ways will fail. The majority of workers and unions are willing to help but not to be manipulated and abused. The companies that recognize this and make the necessary changes will be successful, and labour law reform will encourage these changes.

There's a philosophy behind these changes that asks the companies to communicate with their employees in a significant way. Unions are an appropriate organization to provide an effective representation and a major voice on how the workplace operates, collectively working out solutions to problems and concerns. This idea of communication works both ways and should not be ignored.

Instead of billboards of Marx, Lenin and Rae, why aren't employers doing something really radical and revolutionary, like talking with and trusting their employees and their unions, instead of trying to manipulate and control them? Sit down and negotiate in an open and mature manner. This is a point that's often overlooked.

Some companies believe that not being able to use replacement workers is a major problem. They are missing an obvious solution: serious negotiations with the involved union, even in strike situations where emotions run hot. Unions and their members will maintain the viability of the operations if there are open and frank discussions. For example, it is not uncommon for union members to run powerhouses during a strike.

In our last strike I'm not sure the company believed we were serious about several issues. Without talking with our local, the company attempted to move frames across the picket line. Tempers flared and some people were charged, but the company failed to move its frames. Only when the company got desperate enough to actually talk with our bargaining committee was a deal reached to ship a specific number of frames that our customers urgently required. Once the company realized there was a very real deadline, then it was prepared to do some serious negotiations. Incidentally, had the company attempted to use replacement workers, I'm sure the strike would have erupted into violent confrontation.

I want to speak a little bit about the predictions of job losses and economic disaster. Canadian workers have suffered enormously because of the free trade agreement, the high dollar and inept federal economic policies.



Unfortunately the job losses will continue, with or without labour law reform. It will require a return to economic prosperity to stem the job losses.

What about the loss of investment dollars? If labour laws were the only factor considered for investment, right-to-work states like Alabama or Arkansas would be the only places that had received any investment in the last 50 years. Yet these are the states that consistently rank low in measurement on the quality of life. Unions have been able to obtain reasonable standards of living for their members.

The reality is that investment is made for a variety of reasons. Some factors we can control, some we cannot. The factors that we have and must continue to improve are a stable, skilled, productive workforce, a well-developed infrastructure and a concerned, caring society. Although unions do provide training for their members, both unions and companies must do more training in the future.

In regard to the changes which will make it a little easier to form a union, this will have no impact on my workplace, as we are already unionized. However, we want the benefits of unions to spread across society. There are companies that have successfully used the old laws to prevent their employees from unionizing. They appear to be afraid of unions. Maybe they lack education as to how unions are organized and run. Yet numerous valid studies indicate unionized workers are more productive, perhaps because there is less fear and they have a more effective voice. I suggest what these companies really fear is the loss of control and power over their employees. There is a saying that companies get exactly the type of union they deserve. Perhaps that is what they are afraid of getting.

The changes that encourage unionization are for the future. I have two sons and a daughter, and they probably will not obtain a job like mine in the manufacturing sector. I want them to enjoy a reasonable standard of living in the future. Quite frankly, without unions my children and the children of our members will not likely obtain decent employment.

On behalf of CAW Local 1451, I encourage you to pass these changes and give serious thought to strengthening these changes.

**The Chair:** We have seven minutes per caucus.

**Mr Hope:** I was interested, looking at your brief here, in your presentation today because one emphasis you talked about was hard times to begin with—the trust and understanding between union and management. Then it goes on to show how, after the walls break down between the two organizations, the company and the union, they start to cooperate, working on programs to help employees because the healthier the employee, the more productivity that is created.

What we've been hearing throughout these hearings, and I think you put it very clearly, is that if there is cooperation, understanding and trust built, whatever laws that are put forward will not interfere in your workplace. I guess I'm asking your viewpoint because it seems like you've been through this struggle.

**Mr Aberle:** I don't want to mislead you in indicating that my workplace has perfect labour relations.

**Mr Hope:** No, no.

**Mr Aberle:** When I look back to the 1970s—I used the word "turbulent" and that was probably a drastic understatement—it was actually even a violent place to work, in many senses of the word. That whole era did break down and I think the reality is both sides realized that kind of pattern couldn't continue. I think what you're going to see, even what exists today, is more and more there's recognition coming that what exists today can't continue either and there has to be greater cooperation.

**Mr Hope:** There's been another part. It seems like unions are strike-minded. By the sound of your presentation, you've been involved in collective bargaining. I'm sure that through the collective bargaining process the issue of calling a strike—as you've indicated in here, you had to go out on strike a couple of times. Most people perceive that there's some person who doesn't work in the plant coming in and negotiating your contract.

Could you outline the actual thoughts that go through the minds of the six, 12 or how many people who are there bargaining on behalf of the employees collectively when the challenge has come to make the decision?

**Mr Aberle:** For anybody who isn't familiar with it, in our particular local we have a six-person bargaining committee that represents the different parts of the local. The international representative—or national now that we've become the CAW; I'm still thinking back to the United Auto Workers—can sit at the negotiating table, but the reality is that in our local it is our bargaining committee, elected by our members, that makes the decisions on what to present and, how do I put it, what the priorities in negotiations are. A decision to strike is carried at a general membership meeting where any member can be there and present his particular viewpoint. Is that response good enough?

**Mr Hope:** Yes, it's good for me.

**Mr Ferguson:** I just want to be clear. On behalf of your members, you've elected about six individuals?

**Mr Aberle:** Six individuals, yes.

**Mr Ferguson:** Do they represent their own views or the membership views, and how are those sought?

1540

**Mr Aberle:** They will go to the membership for the particular issues and concerns, although in most cases they know what they are, because they're elected directly by the membership. In fact we have elections coming up in about a month's time, so the politicking starts to get hot and heavy.

It's a two-way street. They will try to convince the membership what issues they feel are important, and the membership will also talk with them about what it feels is important. But recognize where the bargaining committee comes from. They're the same people. It may be somebody who works farther down the line. It may be that the tool and die maker whom you happen to work with is now on the bargaining committee. It may be the lift truck driver from the next department who is now on it. There is a mesh between the bargaining committee and the membership

and in most cases they recognize very clearly what is wanted and what is desired.

**Mr Ferguson:** What I think would be of interest to the committee, Mr Chair, is that Budd Canada Ltd, back in the 1970s and in fact the 1980s, was a company that was subject to a number of wildcat strikes on and off. In fact the standing joke in my home town is that in the 1970s and 1980s, Budd Canada people were on the picket line more than they were working.

That has turned around, let me tell you, just dramatically up to this point in time, whereby the people who work at Budd Canada in fact don't engage in wildcat strikes. I understand there has been a cooperative effort not only on behalf of the company but the employees as well, Mr Aberle, to ensure that wildcat strikes don't happen any more and in fact don't happen in the future.

I'm just wondering if you could share with the committee the cooperative working relationship that's happened at your plant.

**Mr Aberle:** Some of the history is correct. Back in the 1970s we were actually called the most militant local in Ontario. We had just an astronomical number of wildcat strikes. We had one of our union presidents, I recall, referred to as "an industrialist terrorist" by one of the major business papers. It was pretty wild.

But the reality is that we had a president who came in the late 1970s and the early 1980s who was bright enough to recognize that this was not the route to go. He took probably a huge amount of political risk himself by taking kind of the first steps to try to re-establish some sort of stability and some sort of order.

There were changes on management's side too, and I don't want to mislead people to indicate that there's a perfect relationship here. By no stretch of the imagination does that exist. However, it did take initiatives in the leadership of both the company and the union together to start to get some stability and, I guess, some workplace harmony.

**Mr Offer:** Thank you for your presentation. I have a question in the area of organizing.

**Mr Aberle:** Excuse me. Before you get too far, I have done very little organizing.

**Mr Offer:** Okay, I'm going into another area then.

**Mr Aberle:** I have done very little and I can't really respond to a large degree.

**Mr Offer:** If you don't wish to answer the question, that's fine. The question is in the area of organizing. In any organizing drive, from your experience, would the expression of an opinion by the employer be viewed as intimidation or coercion on the part of the employee?

**Mr Aberle:** It's very hard to make a general statement of what might be said in some specific cases. The problem you're dealing with—and I recognize it from a large number of the employees, and there are some fairly good polls that back it up—is that whether it's true or not, the reality is that most employees feel their company would not want a union. They are scared and they will interpret whatever a company says as some form of intimidation. On what a com-

pany says, I think you're going to have to deal with some more specifics before I would say, "This is intimidation."

**Mr Offer:** I certainly appreciate your response to the question. It's a line of questioning and an area which I'm going to explore during these hearings. I think it's important to get from the deputants who have that experience an appreciation of what it means when an employer expresses an opinion during an organizing drive. I think that's important as we deal with an important aspect of this legislation.

I know Mr Brown has a question, but before that, would you support an amendment whereby the final offer between the bargaining unit and the employer is put on the table for the employees to vote yes or no to accept? Their representatives, in this case yourself, would say: "This is what we wanted, this is what has been offered in the final, final analysis. These are the issues that are outstanding, and, employees, it is now time to vote yes or no." Would you support that?

**Mr Aberle:** Again, I'd have to look at specifics before I could actually say yes or no. I understand what you're saying and I understand what you're driving at. The reality is that a bargaining committee has to make some hard decisions about whether a final offer really is a final offer. The reality is that each incident is different and each bargaining committee is going to deal with a so-called final offer in a different way.

If a bargaining committee feels something is a final offer, in most cases it will go to membership. Its recommendation may be to accept it or may be to turn it down; it depends on the particulars. They usually will, because it's a politically smart thing to do and bargaining committees really are political creatures.

**Mr Brown:** We all recognize that we're in very difficult economic times at the moment, for a variety of reasons. We know that layoffs in this province have been great, causing a great deal of hardship across this province in the last months. We know by Ministry of Labour statistics that 70% of those people who have been laid off have been union members. We know from Ministry of Labour statistics and information that in coming months, 25% of the layoffs will occur in CAW locals. I'm wondering what in this legislation is going to help CAW workers maintain their jobs. What will it do to forestall these layoffs, is what I'm trying to ask you.

**Mr Aberle:** I'm not sure this particular legislation was specifically designed to save jobs or to lose jobs. What it really is talking about is having some sort of fair deal between an employer and its employees, and the necessity of good collective bargaining and good relations. I think that's the philosophy there, especially if you talk to a lot of the European manufacturers. The real basis of a lot of the European success has been some pretty upfront, open and honest discussion from both the employer and the employee sides, saying what is necessary and what is not necessary. That's really what we're lacking in this province. Quite frankly, that's the route I think we're going to have to go.



1550

**Mr Brown:** The fact is of course that we've been listening to dramatically opposite points of view as this committee has been going across the province. I guess you would have heard some of those today.

**Mr Aberle:** I've heard some of them, yes.

**Mr Brown:** We know that everything government does, for whatever reason, has some impact somewhere on the economy and on jobs. The business community is quite upset. They look at these and say to us: "The score is 32 to zero. There are 32 proposals in this legislation; 32 are pro-union, zero for business. We see this as a confrontational approach." Maybe that's unfair; I don't know. I'm just saying that's what they're telling us. If we're trying to develop this better relationship, and business feels it's not a part of this at all, I'm wondering how you think that's going to happen.

**Mr Aberle:** You're the one who indicated that 32 changes are pro-union.

**Mr Brown:** That's what I've been told.

**Mr Aberle:** If you start looking at them, I don't think they're as pro-union as what you may have been led to believe. The reality is that it's just good business to have good employee relations. I think that's the whole thrust of the legislation. If you have some good relations, you should have a good business.

**Mrs Witmer:** Thank you very much, Larry, for your presentation. I just want to comment before I say something else. You mentioned in your last page that you have two sons and a daughter and you would hope they would have the same jobs and benefits that you have. I guess we all want that. Unfortunately, I saw a documentary this week which indicates that perhaps won't be the reality for your children or mine. We have maybe reached peak and they will not enjoy the same standard of living.

Having said that, I want to congratulate you. I have personally been involved with your local, 1451, in my position as chairperson of the Waterloo County Board of Education for five years. I was very proud of the fact that when I was chairperson of the board we did cooperate with your union and with management to introduce that school program. I can remember how proud the employees at Budd were when I presented the graduation certificates to them.

You are one of the unions, and there are many others, which I feel has always made a very honest attempt to communicate and put all the facts on the table and establish a good working relationship. I have always enjoyed your president, John Coleman; certainly he's one of the individuals who writes to me and shares concerns with me. I appreciate your ongoing attempts to make sure that I am fully informed as to how you perceive the issues, and if we disagree, it has always been done in a very pleasant manner. So I congratulate you, and I think the tone of your presentation today is very fair. You've put out here what's happened at Budd and some of these suggestions and what have you, so I do congratulate you. I think it's a very positive presentation.

In looking at Budd, I've had the opportunity to attend its annual meetings. As members of Parliament, I know they invite me; I'm sure they do Mr Ferguson, Mr Cooper and Mr Farnan as well. At the last annual meeting I attended, they did express some concern about Bill 40 and the replacement worker section, that perhaps if there were a strike they would not be able to continue to fulfil the contractual obligations and work might be transferred to the US. Can you comment on that at all?

**Mr Aberle:** If you want us to be frank, if Budd attempted to use replacement workers, there would be war. The reality is that our guys are not pussy-cats. We had three people charged and convicted in the last strike, and that was a relatively short one. I don't think it's realistic for Budd as a corporation even to consider the idea of replacement workers. When Budd talks about needing to meet orders, if you look at the documentation here, I talked about our last strike where Budd attempted to move frames through the picket line. They couldn't do it.

Then they sat down and actually negotiated. Even before we got to the collective agreement Budd said: "Our customers need these particular frames. They need them now. What can we do?" We, as a union said: "Okay, you can get these out because we recognize the urgency for your customers. We've got to meet the customer's requirements." I think Budd is playing a bit of a political game, because I don't think it's realistic to even talk about using replacement workers.

The other thing is that I think our local is responsible enough that if it was in that kind of situation, we are going to make sure the stuff gets out. The reality is that when there's a strike at a steel mill, not everybody is out. There are still workers maintaining the blast furnace, because you can't leave a blast furnace unmanned.

**Mrs Witmer:** I just want to clarify for the record that I don't think Budd was saying it would use replacement workers. I think they were simply indicating that the replacement workers section of Bill 40 was of some concern. But I'm pleased to hear you say that your local would be prepared to cooperate with Budd to determine how you could meet the demands of the—

**Mr Aberle:** Assuming there's some open and frank negotiation. The local will not say, "Just because Budd's asked"—we're not automatically going to respond.

**Mrs Witmer:** Right, but you are willing to sit down at the table and talk. I think that's all we look for: a willingness to talk and find solutions to problems. I thank you, and I encourage you to continue to work together.

**The Chair:** We thank you, sir, for attending here.

**Mr Hayes:** Mr Chair, I see there's a minute or so left. If you don't mind, I'd like to ask a short question.

**The Chair:** Mr Hayes, I'm glad you see that. Unfortunately, my timekeeping doesn't see that. Thank you very much for mentioning that to me, but I'd suggest you adjust your watch.

Sir, we want to thank CAW Local 1451 and you for attending here and performing a valuable part of this process. You've obviously initiated some good dialogue and that's a valuable thing. Take care.

While the next participant is being seated, I want to acknowledge the delivery of a submission from the Human Resources Professionals of London and District, who were not able to provide a viva voce submission but who have been present throughout most of yesterday and today and have provided a written submission which will be filed as an exhibit and duplicated for the benefit of all of the members of the committee. On behalf of the committee, I want to thank Human Resources Professionals of London and District, in particular Tony Nother, the president of that organization, for their interest and for the work they've engaged in to prepare that submission. I'm confident that all members will find it a valuable part of the process.

1600

#### GUELPH HYDRO

**The Chair:** The next participant is Guelph Hydro. People, welcome. Please tell us your names and your titles, if any, and go ahead with your submissions. We've got written submissions which will form part of the record. You have very nicely highlighted the recommendations. I'm not going to tell you how to make your submission. As you know, oft-times it's more productive to spend time in exchanges and dialogue—at the very least, it's more lively—than it is, necessarily, to read all your submission. But you've very thoughtfully highlighted your recommendations. Go ahead.

**Ms Joyce Robinson:** My name is Joyce Robinson. I'm chairperson of Guelph Hydro. I'm pleased to have the opportunity to speak to you today on the amendments proposed to the Labour Relations Act under Bill 40. I am accompanied by Guelph Hydro's general manager, Mr Jim MacKenzie.

By now you will have heard and received presentations from a broad cross-section of Ontario concerned with various aspects of Bill 40. You heard from representatives of the Municipal Electric Association, the provincial association for the municipal electric utilities, on August 11 in Toronto. The MEA put forward a number of very specific ideas for this committee and the government to consider. We support the MEA position and would urge the committee to give these proposals serious consideration.

The perspective of the broad public sector has largely gone unnoticed in the discussion on the proposed amendments to the Ontario Labour Relations Act. However, we at the municipal level also have concerns with the direction and impact of this legislation.

We recognize that some adjustments were made between the discussion paper and Bill 40. However, it is our opinion that there is a need for further dialogue. Changes to the bill are still required to reflect the needs of the public sector who provide the people of this province with critical services.

Although the minister held earlier sessions regarding the discussion paper, it should be noted that the actual wording of this extensive bill has only been available since early June. Arranging for legal opinions and consideration of the bill's impact takes considerable time. This legislation is too important to rush.

I understand that we are only one of a few municipal utilities presenting a brief to this committee. Given the timing of the release of the bill and these sessions, it would have been difficult for utility commissions to meet and review the legislation in a meaningful way. I would urge the committee to consider hearing from other municipal sector groups and, if necessary, extend the hearing process to allow for more input.

It is our view that a number of the proposed reforms of the Labour Relations Act are not appropriate because of the potential impact on our industry and our ability to serve our customers. As well, one of the stated purposes of the reforms outlined in the discussion paper is to foster economic development. I should note that many of our business and commercial customers believe that introducing these changes under our current economic times will in fact have the opposite effect.

At Guelph Hydro we have a number of concerns which are outlined in our written submission which has been tabled with the clerk of the committee. As time is limited, I will focus my remarks on four specific areas: the purpose clause, replacement workers, newly hired employees and location. I would ask the committee to review our written submission, which is more detailed.

The purpose clause: Bill 40 would for the first time enshrine an extensive, new and untested purpose clause within the legislation itself. We have been advised that including the purpose clause in the legislation affects all other aspects of the legislation.

The current preamble has been referred to for guidance by the Ontario Labour Relations Board. However, its impact is tempered by its position; it expresses an intent but has not been treated as part of the law.

We recommend that the purpose clause be moved out of the legislation and placed in the preamble, as it exists in the current legislation.

Guelph Hydro proposes that the government place the purpose clause as a preamble and consider the following amended wording:

"It is in the interest of the province of Ontario to further harmonious relationships and industrial peace between employers and employees by:

"1. Ensuring that workers can freely exercise the right whether or not to organize and to be represented by a trade union of their choice and to participate in the lawful activities of the trade union.

"2. Encouraging the process of cooperative collective bargaining.

"3. Providing effective methods of joint problem-solving and dispute resolution."

It is our view that our proposed preamble will address the intent of the legislation and the risk of inadvertent impact of the proposed purpose clause within the law will be avoided. The Ontario Labour Relations Board is intended to be a neutral third party. The government proposals under section 2.1, paragraph 1, section 2.1, paragraph 2, and section 2.1, paragraph 3 of Bill 40 will seriously jeopardize the ability of the labour relations board to maintain its neutrality.



Replacement workers: As a provider of critical services, we call for the inclusion of provisions within the legislation which would permit the use of replacement workers to ensure that we are able to maintain critical services during a strike or lockout. I am sure that all members of this committee can appreciate the need to ensure that electrical services are maintained for customers during a labour dispute.

Members of the committee will be aware that the discussion paper was virtually silent on the issue of the use of replacement workers for critical services. We understand that the government intends that municipal electric utilities will be permitted to use specified replacement workers under subsection 73.2(3). This allows for the employer to use replacement workers in order to prevent:

"(a) danger to life, health or safety;

"(b) the destruction or serious deterioration of machinery, equipment or premise; or

"(c) serious environmental damage."

Guelph Hydro finds that this section is still ambiguous and is an inadequate response to the situation. All three of these situations may occur and the danger, destruction or damage is likely to happen to innocent third parties. It is the nature of the electricity distribution business that it is impossible to predict at what point these three definitions occur.

We recommend that the provision of electricity be included as an eighth item under subsection 72.2(3).

Members of the committee will appreciate the need to maintain electric services during a labour dispute. Clearly there are potentially serious consequences should extensive, frequent or lengthy power disruptions occur in the supply of Guelph's two hospitals, our water treatment plants or wells, our sewage treatment plant, elevators in high-rise buildings or even the city's traffic light system.

Although we are pleased to see a recognition of critical services with the use of specified replacement workers, we also have concerns around the use of bargaining unit employees during labour disputes. The legislation provides that the union could give consent for bargaining unit employees to be used during labour disputes. The employer is required to use bargaining unit employees; however, the employees are allowed to decline. Even if the trade union consents to the use of bargaining unit employees, there's no obligation for the bargaining unit employees to fulfil this consent.

We recommend that subsections 73.2(7), (8) and (9) be deleted.

The use of newly hired employees: Subsection 73.1(5) restricts employers from using newly hired persons who have been employed after the earlier of the dates on which notice of intent to bargain was given or the date on which bargaining begins. We view this restriction as onerous. As part of our normal business planning, we may have to add new staff or fill openings due to retirement or promotions.

Let me give you an example. In 1989, Guelph Hydro negotiated with our employees. We received the union's notice of intent to negotiate in early January. Actual negotiations started in March, and following many bargaining sessions it was late July before a conciliation officer was

appointed. Unfortunately our employees decided to strike. We had to maintain service with supervisory staff. Over the seven-month period following the notice from the union we had several supervisors retire, and they had to be replaced. Under this proposed legislation we would have been unable to use these new supervisors and our ability to maintain our critical service to our community would have been severely hampered.

This subsection suggests to us that the government believes that an employer will significantly increase management staff in anticipation of a labour dispute or prior to the bargaining. I can assure you that Guelph Hydro has not done so in the past, nor will it do so in the future. It would not be possible under our budget process, nor would it be appropriate under our business plan. I am confident in saying to you that municipal electric utilities do not pad non-union staff.

We recommend that subsection 73.1(5) be deleted. If the government is intent on retaining this section, we recommend that the reference date for newly hired employees be the date conciliation begins.

Section 73 generally addresses labour disputes and replacement worker provisions. I have read where the provisions of this section of Bill 40 are intended to lead to a more peaceful labour-management environment. We have heard that this section is consistent with the direction of this legislation in promoting a harmonious relationship between the parties. I understand this piece of Bill 40 is patterned after similar legislation in Quebec.

However, I am advised that Quebec is not necessarily a more peaceful, harmonious labour-management environment. I understand that in the six-year period from 1986 to 1991 Quebec had more than double the number of workers involved in strikes than Ontario: 136,880 workers per year involved in strikes compared to 56,207 workers per year in Ontario, on average.

Over these six years Quebec averaged 224 strikes per year compared to Ontario's 193. Since Quebec introduced its anti-replacement legislation in 1976 it has accounted for 36% of Canada's striking employees, 50% more than Ontario's 24%. These statistics do not indicate to our commission that the Quebec legislation has fostered a peaceful, harmonious labour-management environment.

#### 1610

The place of operation: It is unclear from this legislation what is meant by the term "place of operation." At Guelph Hydro we have a number of locations throughout the city: our combined office and service centre, several substation locations, storage yards remote from the service centre, rented warehouse space and poles and transformers on streets throughout the city. Our staff may need to work at any or all of these locations. Guelph Hydro is seeking clarification of the term "place of operation."

We suggest that the government consider the definition of "establishment" as set out in the Pay Equity Act, RSO 1990. In the case of the municipal sector, the municipality was the boundary set for "establishment."

As I indicated earlier, Guelph Hydro has a number of other concerns with Bill 40. As time is limited today, I'm

not able to expand on these concerns. I would urge all the members of the committee to review our written brief.

I thank the committee for the opportunity to express our views, which I believe are shared by our colleagues in the public sector. The public sector organizations bring a different perspective to the discussions on Bill 40, and I hope we have helped you in your deliberations on this significant legislation. Since the government appears determined to proceed with Bill 40 at this time, we would encourage further consultation with our provincial association.

This completes our presentation. I'd welcome now any questions from members of the committee.

**The Chair:** Thank you. Bob Huget, you have five minutes, please.

**Mr Huget:** I'll be very brief and leave some time for Mr Ward, who has some questions for you as well.

I notice, first of all, this presentation, I think, is a lot like the Municipal Electric Association's in terms of its specific approach to dealing with problems that you see municipal utilities encountering. I have to commend you for this type of approach to this legislation in trying to discuss the issues because I think the MEA had a similar approach. It's very constructive and I'm happy to see that.

On page 6 of the presentation you mention that the definition of an establishment be the same as in the Pay Equity Act. On page 6 you say that the boundary was defined as the municipality in the Pay Equity Act. Is that correct?

**Mr Jim MacKenzie:** That's correct.

**Mr Huget:** What you're saying, then, is that for definition purposes you want the same definition in the act. Is that correct?

**Mr MacKenzie:** That's correct.

**Mr Huget:** Okay. The second brief question I have is on page 7. You raise the issue that "with respect to premises to which the public normally has access" requires better definition." I'd like from you what your view would be of how to approach that. Do you have a suggestion how that should be approached?

**Mr MacKenzie:** We don't have a specific suggestion as to how you describe that, but we think more attention has to be paid to the definition. I think we referred to it in the MEA presentation earlier this month as the Eaton Centre clause. I suppose it was driven by activities around organizing in that particular centre some years ago.

What we're concerned about, and it doesn't apply to Guelph Hydro, because we have a single building with all our operation in one building, but we know of other utilities that have shared premises with city hall, either at a public works yard or the utility head office is within a city hall.

You could have situations where city hall inside employees are on strike, the utility is still working and you've got access to the utility offices through picket lines, those sorts of things. We're not quite sure, and it's not clear within the legislation as it's written, just where people can picket and what right of access means. I think the commit-

tee should look at that. We don't have a specific word for you, I'm sorry.

**Mr Huget:** No magic solution.

**Mr MacKenzie:** I don't think there's a magic solution to much of this.

**Mr Huget:** Thank you very much. I'll defer to Mr Ward.

**Mr Ward:** You made some comment about the Quebec legislation as it pertains to the anti-replacement worker restrictions. I'm not sure if you're aware of it or not, but the person-days lost as a percentage of estimated working time in Quebec declined from 0.45 during the period of 1966 to 1976 to 0.31 from 1978 to 1990. That's a 30% decrease. Don't you think that's a good thing?

**Mr MacKenzie:** I won't argue with your figures; I'm not familiar with your statistics. All I can say is, we were provided with some statistics which we felt were useful to bring to the committee's attention.

What I think I'm hearing from people is, "We've had this legislation in Quebec for a long time, so why are we concerned about it in Ontario?" But I don't know, and I think it's worthwhile exploring, that the legislation the government is proposing to bring to Ontario is exactly the same as the legislation that is in Quebec. Whether it's patterned after the Quebec legislation word for word, I don't know.

We're suggesting to you that to say that Quebec legislation, as it's set by itself, will create a more harmonious environment isn't necessarily the case. I won't argue with your statistics, but I think our statistics are valid too.

**Mr Ward:** So you agree that it is a good thing. The second question I have is of the five labour disputes—

**Mrs Cunningham:** I don't think he meant to say that.

**Mr Ward:** You heard something and I heard something, Dianne. I'm asking the questions here. Of the five major labour disputes that took place in Ontario that involved major violence, involved the use of replacement workers in one fashion or another, don't you think it's a good thing that, if we can remove that threat of violence, in essence we will be improving the labour relations climate in Ontario?

**Mr MacKenzie:** I will tell you from my own personal experience that there can be harassment and potentially violent activity in picket lines without replacement workers. So it can happen in both situations. I don't think it's necessary for us to comment on the activities that surround perhaps the private sector. We're here to advise you of our concerns about critical services in the public sector and I think that has to be the focus of our attention.

**The Chair:** Thank you. Mr Offer, five minutes, please.

**Mr Offer:** I'd like to talk about the area of replacement workers. I think in the legislation there is a gaping, massive hole and that comes about where a strike takes place and somebody asks—I don't want to use Guelph Hydro as this example—for an exemption so they could use either specified workers or other workers, I guess, on a contract-out basis.



There's no process in here as to how the request is made, when the request is made, the amount of time required by the union to respond, what happens if there is a disagreement. In my mind, as this hole exists, I'm thinking about the spotlight isn't being repaired. I'm wondering if you can comment on how you view the process. I know your position is as stated, that you would rather just be exempt, but if that isn't the case, what is it that can happen, the way the bill is worded now?

1620

**Mr MacKenzie:** The way we understand the current bill—the trade union in our case at Guelph Hydro is our International Brotherhood of Electrical Workers local—we would sit down with the IBEW during negotiations and discuss the issue of making unionized employees available in the event that we have a strike.

The union could agree to that, but there is absolutely nothing in the legislation that says the people whom it represents will be available when the time comes. So it's possible that when you have an emergency, which is when we want to respond and respond quickly, the people who originally said they'd make themselves available under an emergency aren't available. That could be for any number of reasons. They're just not available. We then have to respond in some other way. In the meantime, our response time to whatever emergency we're faced with is lengthened. The legislation is very open-ended. The union could consent, but there's no obligation on the part of employees.

My other concern with that part of the legislation is that, in the area in which we work, we need to ensure that the people we have working have their minds on their jobs, particularly linepersons and electrical substation maintainers. We're dealing with situations where people can fairly easily get hurt, and we need to have people who have their minds on their jobs. I'm afraid, in terms of using bargaining unit employees during the course of a strike, their minds are not always going to be on their jobs, because, after all, they're on strike. They're not going to be very happy with the employer at this point in time. I want to see that our workers are focused on what they're doing and I don't know that they would be in the event of a strike. So I'd be concerned about that.

**Mr Offer:** I think you've answered the question very clearly and succinctly.

There is another concern you've brought forward and that is the area of location. I think it was brought forward earlier. I'm thinking of the Hydro in my municipality, Mississauga Hydro. It has its own place. There are inside and outside workers—obviously they're different units—and they have the substations throughout. Where is that location establishment problem by the wording of the legislation?

**Mr MacKenzie:** I think the legislation isn't clear. That's the issue: It's not very clear. We have substations throughout Guelph, as Mississauga Hydro does in Mississauga. Does the location mean just our service centre? Does it mean our remote storage yards? What about the warehousing facilities we have outside our service centre? We have one head office and service centre combined, but

we have other locations throughout the city. At the same time, we have distribution facilities throughout.

**Mr Offer:** If there are different locations, how does that affect—

**Mr MacKenzie:** The legislation isn't very clear on that and I'm not sure how it would impact us.

We were concerned too about utilities. We're not specifically one of them, but, for example, I had mentioned on a previous occasion to this committee the concern with the city's water system, where the engineering staff who manage the water system may be located in city hall but the water treatment plant is some miles away. If you take the definition of location literally, then its location is city hall. Under the legislation, the way we read it, they would not be able to work out of another location, which is the water treatment plant some miles away. So we suggest the establishment criteria cover the whole municipality.

**Mrs Witmer:** Thank you very much for your presentation. You certainly do bring a different and much-needed perspective to the discussion on the Labour Relations Act. I'm sure by the comments that have been made all the participants today are going to very seriously consider some of the unique concerns you people do have, and the other electrical associations.

I'd like you to comment a little further on the replacement worker section. I'm not sure—where you say, "Prohibition re Replacement Work," you want the term "person" to be changed to "employee." It's on page 7. Would you please explain why it is you want that change made?

**Mr MacKenzie:** I think we state in the text, above the recommendation, 73.1(1) defines "'person' as including one 'who exercise managerial functions' and is thus excluded from the bargaining unit." Within the legislation, if you include person, then that person has the right to refuse work, so we could have the right of refusal to not only the union staff but our management staff as well. Obviously that is of concern to us in our ability to maintain our service.

**Mrs Witmer:** So you're looking then for that change and some clarification, as well as to the interpretation.

**Mr MacKenzie:** I think if the word was changed to "employee," then that's clear enough and someone who exercises managerial or supervisory function is not then included.

**Mrs Witmer:** Can you clarify somewhat for us as well, you have expressed your concern about the right to access picketing and organizing. How do you see this being detrimental as far as your being able to provide the essential services is concerned? That's on page 7 as well.

**Mr MacKenzie:** The access is of concern where you've got multi-use buildings. It doesn't affect Guelph directly, but it does affect other utilities where they are in multi-use buildings. It not only affects perhaps the right of access for employees to get to their work through some other picket line for some other union that may be having a labour dispute with their particular employer; it also could affect the right of access for customers.

For example, if you had a joint city hall and city hall staff were on strike and you had customers who wanted access to the utility and they have to access that through picket lines, it could be, where is the picket line? Is it out on the street or is it within the public foyer of the building? The legislation talks about public access. The public is normally able to go into city hall, come and go. That's what city hall's all about. So where is the picket line there? That's not very clear and we really think it needs to be addressed.

**The Chair:** I want to say thank you to the people from Guelph Hydro for being here this afternoon, for travelling, as they did, to attend at this committee hearing. You've made an important contribution and we appreciate it. We're grateful to you.

Were there any matters committee members want to raise?

**Mr Ferguson:** Is this the position of the hydro commission?

**Ms Robinson:** Yes.

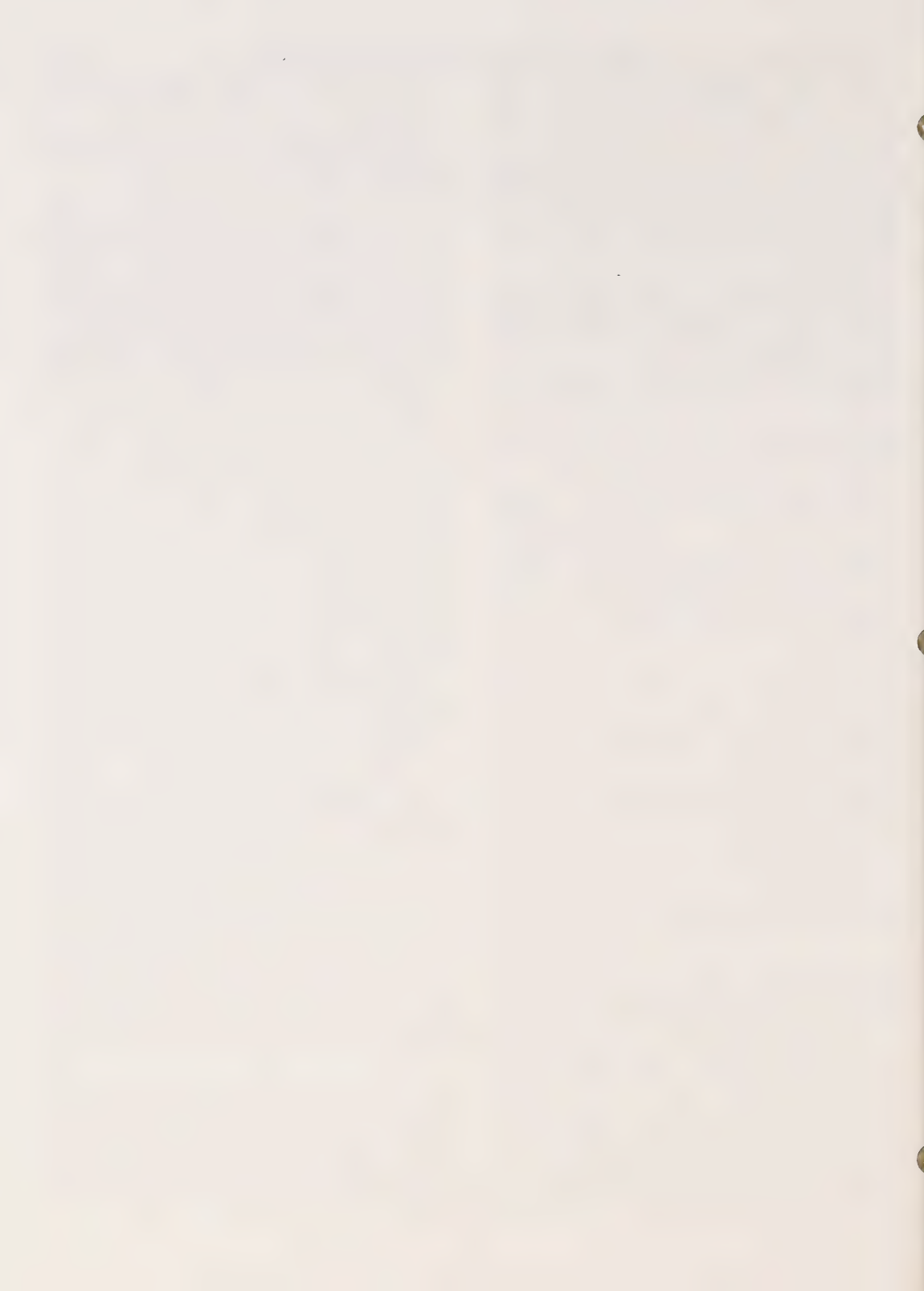
**Mr Ferguson:** This submission has been endorsed by the hydro commission.

**Ms Robinson:** Yes.

**The Chair:** Are there any matters committee members want to raise? In view of that, I want to say thank you to the committee members. Thank you to Ms Cunningham and Mr Winninger, and would they please convey to their community our thanks for the community's hospitality while we've been here in London. Thank you to the committee members for their cooperation. We are adjourning until Monday 1:30 pm, Sudbury, Ontario. Thank you, people.

The committee adjourned at 1629.





**Also taking part / Autres participants et participantes:**

Winner, David (London South/-Sud ND)

\*In attendance / présents

**Clerk pro tem / Greffier par intérim:** Decker, Todd

**Staff / Personnel:** Anderson, Anne, research officer, Legislative Research Service



## CONTENTS

Thursday 20 August 1992

<b>Labour Relations and Employment Statute Law Amendment Act, 1992, Bill 40</b> . . . . .	R-691
London and District Construction Association . . . . .	R-691
Ken Romanuk, past chairman	
Tom Dool, general manager	
Energy and Chemical Workers Union . . . . .	R-695
Daniel Ublansky, national legislative coordinator	
Brewery, Malt and Soft Drink Workers Union, Local 304 . . . . .	R-698
John McNamee, assistant business agent and counsel	
Johnson Controls Ltd . . . . .	R-702
Rick DeBruyne, plant manager	
Ralph Lassel, employee relations manager	
Woodstock District Chamber of Commerce . . . . .	R-708
Robert White, president	
Beaver Foods Ltd . . . . .	R-711
Allan Greenslade, senior director, human resources	
Paul Bachand, vice-president, human resources, Cara Operations	
London Chamber of Commerce . . . . .	R-716
Ed Holder, chair	
Jim Thomas, vice-chair, policy	
London and District Labour Council . . . . .	R-720
Jim Ashton, president	
St Thomas and District Labour Council . . . . .	R-720
Steve McMurdo, president	
CAW Canada, Local 1451 . . . . .	R-725
Larry Aberle, board member	
Guelph Hydro . . . . .	R-729
Joyce Robinson, chairperson	
Jim MacKenzie, general manager and secretary	

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- Turnbull, David (York Mills PC)
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- Wood, Len (Cochrane North/-Nord ND)

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- \*Cunningham, Dianne (London North/-Nord PC) for Mr Jordan**
- \*Ferguson, Will (Kitchener ND) for Mr Dadamo**
- \*Hayes, Pat (Essex-Kent ND) for Mr Klopp**
- \*Hope, Randy R. (Chatham-Kent ND) for Mr Wood**
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- \*Ward, Brad (Brantford ND) for Mr Waters**
- \*Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Turnbull**

*Continued overleaf*



## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Monday 24 August 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Lundi 24 août 1992

### Standing committee on resources development

Labour Relations and  
Employment Statute Law  
Amendment Act, 1992

### Comité permanent du développement des ressources

Loi de 1992 modifiant des lois  
en ce qui a trait aux relations  
de travail et à l'emploi



Chair: Peter Kormos  
Clerk pro tem: Todd Decker

Président : Peter Kormos  
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### **Table of Contents**

Table of Contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

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La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday 24 August 1992

The committee met at 1330 in the Northbury Hotel, Sudbury.

### LABOUR RELATIONS AND EMPLOYMENT STATUTE LAW AMENDMENT ACT, 1992

#### LOI DE 1992 MODIFIANT DES LOIS EN CE QUI A TRAIT AUX RELATIONS DE TRAVAIL ET À L'EMPLOI

Consideration of Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment / Loi modifiant certaines lois en ce qui a trait à la négociation collective et à l'emploi.

### NORTH BAY AND DISTRICT CHAMBER OF COMMERCE

**The Chair (Mr Peter Kormos):** Good afternoon. We're ready to resume. Our apologies for being a few minutes late. I want to remind people once again that there's coffee and perhaps other beverages and some repast at the side table. Please make yourselves at home. It's there so that you can feel comfortable.

The first participants are from the North Bay and District Chamber of Commerce, if they'd please come forward and have a seat in front of a microphone. Their written brief has been distributed. It forms part of the record. I want to remind people that French-language translation services are available. It's a simple matter of obtaining one of the little receivers with the ear sets. Please try to save the second half of the half-hour for exchanges and dialogue. Go ahead, sir.

**Mr Jeff Rogerson:** My name is Jeff Rogerson, representing the North Bay and District Chamber of Commerce. With me is Barry Spilchuk, president of the North Bay Chamber of Commerce. We would like, first of all, to thank this committee for the opportunity to appear before you today and speak concerning Bill 40 and the Ontario Labour Relations Act.

The North Bay Chamber of Commerce is a member organization of the Ontario Chamber of Commerce. We represent over 800 local businesses employing more than 9,000 people in the North Bay and surrounding area.

In our view, labour legislation must encourage fairness and strive to maintain a balance between labour and management to be both effective and workable.

Can we hold on for a second? We'd like to wait till all you guys are ready.

**The Chair:** You've got a half-hour. People are doing a number of things. Go ahead, please. You can wait if you want or you can continue with the submission.

**Mr Rogerson:** The proposed amendments to the Ontario Labour Relations Act, in our view, do not maintain any sense of balance and, as a result, the North Bay and

District Chamber of Commerce is adamantly opposed to Bill 40.

In a market-driven economy, the strength of the economy is directly proportional to the level of investment it is able to attract. In Ontario, we have enjoyed one of the highest standards of living in the world because of a high level of investment by entrepreneurs and venture capitalists. All studies conducted pertaining to the proposed changes to the Labour Relations Act clearly demonstrate it will have a detrimental effect on the amount of investment Ontario will be capable of attracting. Consequently the standard of living for all residents of our province is at risk.

We've all heard the horror stories about how much investment will leave the province or how much potential investment will not materialize as a result of this legislation. Some studies have indicated that billions of dollars and hundreds of thousands of jobs are at risk. Unfortunately the only certainty is that investment and jobs will be lost; how much investment and how many jobs will only be answered after the legislation have been enacted, and then it will be too late.

Currently in Ontario, approximately one third of the workforce has a collective agreement in place, while more than 60% are non-unionized. What the government appears to be saying with this legislation is that 60% of the businesses in this province are not operating to their full potential because they do not have a collective agreement in place. Of course this is totally absurd. Ontario has been the economic backbone of this country prior to today.

The premise of this legislation and the discussion by the government states that amending the act as proposed will cause higher wages, but in turn will also cause Ontario to become more competitive in the global arena. It does not take an MBA to realize that this cannot be the case. Competitiveness stems from two sources: strategic competitive advantage derived from a unique product, service or methodology, or simply price.

If every business in Ontario has a competitive advantage because of a distinctive product or service, then the effects of Bill 40 will be minimal. However, we all know this is not the case. Most businesses in Ontario must compete solely on a price advantage basis, and this will become even more prominent given the North American free trade agreement, yet this government has declared that wages must escalate.

The only way companies can remain competitive and pay higher wages, as this government wishes to see happen, would be to reduce the size of their workforce either through downsizing or increased automation. Given this harsh reality, in short time we are confident that Bill 40 will do more harm than good to those it was actually intended to help.



Who will suffer the most from this legislation? The small business person. As the small business person has created the majority of the employment in this province over the past 10 years, organized and unorganized labour will suffer as well.

Why? It's quite simple. Because suddenly the small business person who has mortgaged his or her home and risked all to start an enterprise will probably have second thoughts on the whole prospect, given the fact that if he can offer employment, he runs the risk of losing all control over his enterprise in binding arbitration.

Specifically, what is the North Bay Chamber of Commerce opposed to in this act?

There are a number of things. We do not feel there should be a ban on replacement workers during a time of labour unrest. We feel that this erodes the potential for bargaining, as business will have no option but to agree to the demands of labour or shut down altogether.

Workers in a struck bargaining unit should continue to have the right to cross a picket line should they desire. This amendment erodes every free citizen's democratic right to choice.

We do not feel that striking employees should have the right of access to third-party property for picketing purposes. This overrides the Trespass to Property Act, which requires the owner's permission to remain at a location.

We feel that the current organizing methods are workable and acceptable to business and labour and, to maintain a fair balance, should not be altered. It is against basic democratic principle that the right to petition has been eliminated. What incentive is there for a union to bargain in good faith when negotiating a first contract, knowing full well that it only has to wait 30 days to have the contract arbitrated? Union officials can bargain less seriously knowing that a settlement will be imposed and employers will have no recourse.

1340

Finally, we must address the impact we believe this will have on social programs. Already the province's treasury is empty, so how can we afford the additional strain to the social systems that this act will most definitely cause?

With Ontario's unemployment rate at its highest level in years, why are we even contemplating any legislation that could have a detrimental effect on putting people back to work? Instead we have to encourage investment and employment.

Who is this legislation actually intended to serve? Employers' rights are reduced through the terms of the act. Employees' rights are reduced, as they lose their democratic right to choice. In our view, this leaves only one component, unions themselves.

In closing, we must ask why this government feels changes to the Ontario Labour Relations Act are required. Up to now, the economy of Ontario has been the envy of most other jurisdictions. Investors have had confidence in the potential of the province and been willing to provide the funding that has fuelled expansion and jobs. Entrepreneurs have been willing to take huge risks that have generated thousands of good-paying jobs for hardworking Ontarians.

So we ask you to please abandon this legislation. Do not offer to trade the stability and wellbeing of an entire province for a theory that has proven unworkable in other provinces and that common sense dictates will be too expensive to manage before it is too late.

**Mr Barry Spilchuk:** In addition to that, I would like to just recite a tiny little speech that I've been giving around the province. I'm a management consultant and I do a lot of work between businesses and people inside the business who aren't getting along with each other. That's what this legislation is fostering. Basically the speech is this: "Them versus us" has got to stop. End of speech.

What we're doing, even in today's setup—take a look at the agenda for today: business first, labour second; business first, labour second. That's not good. That's just further fostering "them versus us." We get to go first; they get to slam us. It should be mixed up, because this whole legislation is.

There are a lot of green buttons walking the room that say about labour reform, "It's Time." It's time, no question about it, but not this way. Not legislated. No way.

Was it you, Ms Murdock, who was on the radio yesterday?

**Ms Sharon Murdock (Sudbury):** Yes.

**Mr Spilchuk:** We heard your radio show, and a lot of positive comments were coming out of the radio show, but I think it was you yourself who said that only 4% is a problem right now. Only 4%. So we're going through these hearings. This is the second time you people have been here; the second time that we've had to shut down our businesses to come here and make a presentation; the second time we've had to pack up everything and move down the highway and do this thing; the second time you guys have had to come here and do your little song and dance.

This is not good. We're in times now when we should be taking all this creativity—we have a lot of talent. Look around this table. Look behind me. There's a lot of talent and there's a lot of potential in this room, yet what's happening? We're sitting here arguing over "My way's better than your way." This is ridiculous.

The way we've got right now is not perfect and it could use a little adjustment. What you're doing is just throwing it all away and starting from scratch. It just doesn't seem to make sense. Let's fix what's wrong, not just throw everything out and throw the baby out with the bath water.

Labour's going to be real happy when this is all over, but you're going to have business people holding their hands up and asking, "What's the point?" It's all about confidence.

Another part of the speech we give is that there would be no such thing as labour without business. But I always like to add on to that there would be no such thing as business without labour. The two of us have to go like this. For the longest time now we've been like this, and that's ridiculous. We have to start going like this.

Take a look at the companies that are shutting down. Typically, provincially we tend to blame the federal people. We always try to lay blame on everybody else. Everybody's blaming free trade; everybody's blaming GST. Well, free trade and GST are a reality, and I don't care how powerful

we are provincially, we're not going to change that. We can't change that. These are the new rules of the game. Let's work within the context of the rules and let's change these rules to foster positive cooperation between business and labour. We have to do this together.

Even in North Bay, we're trying to take those steps. The North Bay and District Labour Council, your next presenter coming up, came to us about a month and a half ago and said, "Would you be interested in cohosting Labour Day with us?" After a lot of discussion, yes, we decided to do it in conjunction with the city of North Bay, the North Bay and District Chamber of Commerce and the North Bay and District Labour Council. The mayor, the president of the chamber of commerce and the president of the North Bay and District Labour Council are going to lead the parade on Labour Day.

This "them versus us" stuff has to stop, and it has to start right in this room, and by that I mean don't make us go first and then get to slam us and our arguments three different times during the day. That's just plain silly; it's just not fair. Everybody should have a chance to refute everybody else's argument. Everybody else should listen to what the other person has to say.

If you're going to pass this legislation as it is, when are you going to start legislating teamwork, cooperation and harmony? You can't do it, just as this legislation is not going to do what it's intended to do.

Again, it's all about confidence. If business people don't have the confidence to take the risk to open up a new business, there will be no labour and vice versa. You're seeing a lot of businesses open today from former labour people because their plants have been shut down. When your back's against the wall you get real creative. All of a sudden the plants are shut down, "Maybe I'll open up a new business," and all of a sudden the people who used to be active unionists are starting to realize, "Wow, I own a business now." Even they're saying, "Whoa, this legislation is scary."

I'm saying, take what we have, fix it a little bit, fix what needs to be fixed, but not this. This is far-reaching and going far beyond what we need to do.

I just want to say again, in closing, before your questions to us, that there would be no labour without business—and we agree and we've discussed it—and there would be no business without labour. Please reconsider this legislation. Make it work but don't make us sit here and suffer for it.

**The Chair:** Thank you. Mr Offer and Mr Brown, four minutes, please.

**Mr Steven Offer (Mississauga North):** Thank you for your presentation. I want to pick up on the last point you made with respect to the legislation itself and how it seems to be polarizing groups at a time when we can least afford it in this new era of competition.

At the end of your presentation you said, "Please abandon this legislation." Although we've heard that from others, I think you should be aware that this committee is operating under a particular time allocation motion by the government. We're going to have five weeks of hearing and a

certain amount of time for clause-by-clause, and this bill in form is going to be law probably before Thanksgiving.

**Mr Spilchuk:** It doesn't have to be.

**Mr Offer:** Although you say it doesn't have to be, the unfortunate thing from this side is that we're dealing with a motion and I think we should be hearing from an awful lot more people and taking a look at a whole variety of ways to deal with legislation of this kind. But the government has passed a motion as to how long we're going to be sitting, how long we're going to debate and when this thing is going to be law.

In fairness, I think the abandoning of the legislation is probably not in the cards. What would you suggest be done with the areas of concern that you have brought forward here?

**Mr Rogerson:** I think it's quite simple. Honestly, I have to disagree with you, given, granted, the democratic process we live with in this province and given the fact that this bill has already had its first reading and now you're in the process of gaining public consultation. However, given that and given the process of public consultation, we still have to call for the total abandonment of this bill. I'm sorry but, regardless, it's not fair for you to sit there and say to us, "Given the fact that it's already been given first reading, the cards are in place."

What you're basically saying is it's a done deal—isn't that what you're saying?—to which my response is, then why are we here? Is this just an effort in futility? Are we just wasting our time? Are we just doing a window dressing exercise here or are you people really concerned about what we have to say? What we have to say is that this is a bad bill and we would like it scrapped.

**Mr Offer:** I understand what you're saying and I certainly do sympathize and agree with you. I think there should be more time. I just want to tell you that the bill has already gone through second reading and I want you to know the rules that have been imposed on us by them, that is, five weeks of hearing, eight days of clause-by-clause, two days of committee of the whole, two days of third reading debate, pass into law. That's a motion that was passed.

We stood against that motion, we voted against it, but I certainly do appreciate the concerns you brought. They are valid concerns felt right throughout the province, and it's clear that people are coming before this committee and saying: "This isn't a bill about whether one is in favour or against unions. That's not what this bill's about. It's about the freedom to choose."

I thank you very much for coming before this committee and helping us.

1350

**Mr Michael A. Brown (Algoma-Manitoulin):** I have been interested the last while in trying to determine how we decide whether labour legislation is in fact good legislation, where the signposts are, because I'm a politician; I don't claim to know everything about everything. In fact we've got to listen to what folks have to say and balance out their views.

But objectively there's got to be a way that we can determine from statistics. For example, are Ontario workers



the best paid, or how do we rate in terms of Ontario's workforce being paid? Are the number of days involved in strikes an indication? There's got to be a variety of signposts.

I agree with my colleague Mr Offer that this is going to be passed and that's life and there's not a whole lot I can do about it, no matter what I try. What I want to know is, three years out from here, how can I tell whether this was the right thing to do or not?

**Mr Spilchuk:** Three years from now?

**Mr Brown:** I suspect two or three years is going to be a reasonable time frame to decide whether the legislation was in fact good legislation or bad.

**Mr Spilchuk:** When you listen to the people who've written their supposedly unbiased reports, and we read our unbiased reports, as labour reads its unbiased reports, our contention is, why put this in? You know, if it's going to take two or three years to find out that the province is going to go south instead of north, we're in trouble. Is my time up?

**The Chair:** Go ahead. Complete your response.

**Mr Spilchuk:** I've got no mike. There we go.

We're going to be in trouble. Studies have shown that two to three years down the road, based on the existing legislation, business will not come back here or even start here.

**The Chair:** Carry on. If the mike ain't picking you up, the highly talented person behind me is reading you on to the record.

**Mr Spilchuk:** Why put this in if we know it's going to hurt? Your comment near the end there was saying, "Oh, we think unions are bad." We don't think unions are bad; we think this legislation is bad. Okay? This is silly.

We're sitting here as small business people, every one of us, saying, "We don't want to do this because of this, this, this," as Jeff outlined in the report. We know that this is going to hurt. Studies by independent consultants have shown that this is going to hurt. Okay? Why do it? You don't have to do something because it hurts, it's going to make you feel better in the long run. I don't think so, no. Why are we going through this whole charade of this today if indeed it is going to be passed in five weeks? This is a waste of all the talent in this room. This is a waste of all the energy in this room. If the NDP is going to pass this legislation, it should have passed it a couple of months ago and we could have stopped wasting all this time.

**Mr Brad Ward (Brantford):** I think it's a fair statement to say that the workplace and the workforce have changed dramatically since the 1970s, the last time the Ontario Labour Relations Act was updated in any significant manner, which is part of the reason why we feel it's important to bring the act into the 1990s, and indeed the 21st century.

The question I have for you two gentlemen representing the North Bay and District Chamber of Commerce is, you mentioned your concerns pertaining to Bill 40, but there are some suggested legislative initiatives specifically dealing with security guards and giving them the right to select the union of their choice, dealing with restricting

petitions during an organizing drive and allowing full-time and part-time bargaining units to be consolidated into one.

These three initiatives are in every other jurisdiction throughout Canada and seem to be working. Is it the opinion of the North Bay and District Chamber of Commerce that those three initiatives in every place else in Canada are suitable, or at least are not of a concern to the chamber of commerce? The reason I asked that is, I'm trying to find that common ground the gentleman mentioned.

**Mr Rogerson:** You'll notice that those weren't three of our specific concerns. Our concerns were more broad-reaching. We weren't that necessarily concerned with one segment, security guards. Our concern is that what is happening here is that the democratic process in the workplace is being eroded. People in a democratic society should have choice. What you're doing is removing that choice.

If a person is a member of a union and a plant goes on strike, that person automatically loses his authority to cross that picket line. Even though he himself may disagree with the situation, he may have to work. He may have no choice; just economics may dictate that person has to work. What you people are saying is, "Unfortunately, given this labour legislation, we are no longer in a democratic jurisdiction, given your particular situation, and as a result you have no choice."

One of the other areas where we've run into great contention is that employers can no longer use replacement workers during a time of labour unrest. We understand that the premise your government has put on that particular clause is that it will encourage safety on the picket line. That's absolutely absurd.

Your member sitting next to you, Ms Murdock, actually stated yesterday that of all the labour disagreements in the province, only 4% actually ever get into a strike situation. That means 96% are resolved peacefully and satisfactorily without any labour disruptions. To me, that means there really isn't a problem. Why are we putting so much effort in dealing with a non-problem?

She also stated that the reason this was being put in place was to encourage safety on the picket lines. We already have laws in place that encourage safety on the picket line. If someone is being abused or assaulted on the picket lines, that is why we have laws dealing with assaults. Why aren't they being imposed?

**Mr Ward:** I'm pleased to see, as far as those three specifics that I mentioned are concerned, that we apparently have some common ground we can work with. I have a follow-up question. I'm not sure how much time I have left.

You mentioned choice and democracy as far as employees are concerned. Just so I'm clear, for my own benefit, is it the opinion of the North Bay and District Chamber of Commerce that if the majority of employees of a certain workplace make the conscious decision, for whatever reason, that they feel it necessary to have a trade union represent them—they make that choice—obstacles should be removed from the existing act, because we're hearing there are obstacles, that impede that choice from taking place?

**Mr Spilchuk:** I don't see any reason why that would be a problem. If workers, as they do now, have the right to organize, what's the problem? We have no contention with that. That's not the problem here. The problem here is the legislation that's in place, the way it is right now, is just going to scare people away. It's scaring us and we live here. It's damned scary to look at this thing and say, "Wow, look at all we have to do."

There's one famous department store in the United States; its employee handbook is one page. It says, "In all cases, use your best judgement." That's it, nothing else. You look at most other businesses and their employee handbook is this thick. And you know why? It's to cover the 2% of the people who make all the problems. Look at any union handbook. It's all this stuff in there to discourage and take care of, "What if there's a problem?" and it's this thick. This is silly.

We urge you to use your best judgement. This legislation as it stands, using your best judgement, I think deep down inside your hearts you know it's not right the way it is. You wouldn't have the entire business community up in arms over this. Again, all we're doing is fostering "them versus us." One of the gentlemen over here—I think it was Mr Brown—said, "Them over there and us over here," in his presentation. That's what's happening, and this is silly. The businesses that are still in business in Ontario today, bless their souls; my goodness, congratulations to all of them. Take a look at most of them that are prospering. It's because the owners of the business and the people who work in the business are saying, "How can we make this better?" I firmly believe you don't have to be sick to get better. Ontario's doing not too bad; we're a little bit sick right now, but we could be doing a whole lot better. It's the companies that ask, "How can we do this better?" every day; they're listening to their employees.

1400

**The Chair:** Thank you. We've got to move on to accommodate Mr Villeneuve, briefly, please.

**Mr Noble Villeneuve (S-D-G & East Grenville):** Our party totally agrees with the presentation by the North Bay and District Chamber of Commerce and I would like to allow the government time for one or two more questions to make sure they get the message.

**The Chair:** I'm going to thank Mr Villeneuve for his comment and I want to thank the North Bay and District Chamber of Commerce for coming here this afternoon and participating in this process. It was important that you did that. We thank you, gentlemen, and the chamber of commerce of North Bay. We wish you a safe trip back home.

#### NORTH BAY AND DISTRICT LABOUR COUNCIL

**The Chair:** The next participant is the North Bay and District Labour Council, if those people will please come forward and have a seat in front of the microphones. Their written material has already been distributed and will form a part of the record and be made an exhibit. Please, sir, tell us your name, your title, if any, and carry on with your submission. Please try to save the last half of the half-hour for questions and exchanges.

**Mr Art Campbell:** Art Campbell, president of the North Bay and District Labour Council. I'm pleased to be here on behalf of the labour council and would like to thank the honourable members of the Ontario Legislature resources development committee for the opportunity to speak this afternoon.

I have to agree on a few things my colleague just said, especially on a Labour Day event where the three parties are getting together. Labour did make the first step, and I still contend that a journey of a thousand miles always begins with the first step. When business and labour can get together, why not? We don't have to be at each other's throats all the time, but there are times when we are opposed to one another, and that's going to carry on throughout the ages. I'll give you some examples as I go through the brief on some of the topics my colleagues just touched on.

On behalf of the North Bay and District Labour Council, I am pleased for the opportunity to express our views on Bill 40, the government's proposed amendments to the Ontario Labour Relations Act. These proposed amendments are something we in the labour force have fought long and hard for. Workers' rights and the lobbying on behalf of labour to obtain those rights have been a struggle, to say the least.

Workers join unions to better their lives, to maintain a standard of living and to have a voice. They want to take pride in the workplace and feel as if they belong. No union wants to put a business out of business. After all, it's our livelihood.

I can give you a good example of that. I've been on strike now for three years in North Bay. That's a travesty, and if these labour laws had been in effect, I think something would have been done a long time ago to correct my situation. It's time now; the wheels have been put into motion. We've come a long way, but I still contend that we have a long way to go.

For far too long now, those who oppose Bill 40 have believed it is okay for their people to intertwine resources as shareholders to improve and benefit their wellbeing and security. For some time now, we have heard this sector of people say it is our government that is trying to dissuade foreign investment from locating in Ontario, while in fact they are at the heart and soul of it all. They've been opposing everything for generations, from day one, from the child labour laws right down to today's hearings. They are even opposed to these hearings, how we're running the hearings.

In Ontario, there are many employers who treat their employees fairly and with respect, giving them a feeling of belonging. But unfortunately, the truth of the matter is that many employers do not treat their employees fairly or with respect. This reflects in our Ministry of Labour and our human rights board. Many workers have been cheated out of holiday benefits, disciplined and let go without just cause.

For an example, again in 1989, a worker in my workplace was given three days off for no reason at all. Another worker was forced to work an overtime shift, and our collective agreement said if you work an overtime shift a



meal will be provided. No meal was provided and no money in lieu of was provided.

It's these types of employers who oppose the labour amendments. They were opposed to labour amendments throughout the ages, for example: the Factory Act of 1884; abandoning the use of child labour; the reductions in the work week from 60 hours to 54 hours to 48 hours and to our present 40-hour work week; health and safety acts; Canada pension; pay equity and now Bill 40. The list goes on and on. Employers have taken strong stands on wage controls, UIC cutbacks, free trade and pension takebacks, all the while letting the most needy labour to gain fairness and equity in the workplace, with nothing but opposition from these employers.

Another amendment I would like to speak on is the right to organize, and organizing and certification. It should be every worker's right to be able to be organized if he or she so wishes, with no harassment or intimidation from employers. This is not the case.

Another example is in the retail sector. In my home town, North Bay, where the workers are trying to form a union, they are intimidated, harassed, given every dirty job in the place to do, with undue hardships placed upon those workers until they give up the idea that they want to form a union. If worse comes to worst, some of these employees are also fired. They have all kinds of pressures applied to them. They are intimidated.

I believe employers should supply an intended organizer with a list of all employees' names and addresses. I don't believe it's an infringement of confidentiality. After all, when there is an election, every eligible voter has his or her name placed on just about every pole on every street corner.

By removing the \$1 fee, it is not making it easier for workers to organize and certify but simply makes a statement that they don't have to buy into a union, but rather exercise their right and put it to a vote.

On the amendment of replacement workers, it's time our government moved in the direction of the Quebec anti-scab legislation. No worker or union, as I said before, wants to force the employer out of business. This is ludicrous. After all, it's their livelihood at stake. I can tell you, when you go on strike and a strike has gone on as long as mine, three years, a lot of things happen to the working people. We've lost our homes, we've lost our cars, our marriages have split up. I've got brothers in the hospital due to stress from the duration of the strike; triple heart bypasses. Another brother's had a stroke, and just as recently as two weeks ago I had to sit with a brother from 10:30 at night until 5:30 in the morning who wanted to shoot himself because of the stress that's been placed on him over the duration of this strike. A lot of hardships are put on the working people, so nobody can tell me that we want to do this deliberately to put a business out of business.

It avoids many violent altercations on the picket line. A colleague before said there are laws that take care of this. I can tell you, after standing on a picket line for three years, that those laws aren't being enforced. We've had people come in and try to run us over on the road, and when we

phoned the local police, well, we've got to be able to describe the guy in detail, what he's wearing down to his underwear, I believe, tell how fast he's going and what's written on the side of his truck; never mind trying to get out of the way so the guy doesn't run you over.

It doesn't tip the scales in favour of the workers. What it does is ensure that both parties come to ratification of an agreement sooner, noting these restrictions would only apply during a lawful strike or lockout.

I believe we have come a long way with this amendment to labour reform, but also contend we still have a long way to go. I believe when a strike or a lockout reaches three months—three months is a long time; a lot of things can happen to a person in three months; a lot of people claiming bankruptcy; if you're going to lose your stuff, you lose it right off the bat, your car, your home—compulsory arbitration should be added to the labour reform amendments. Things shouldn't be put at a standstill until one party or the other decides on people's futures.

In conclusion, once again I commend the government of Ontario for its amendments to the Ontario Labour Relations Act and wholeheartedly support these amendments in general, but would contend we still have a long way to go.

**Ms Christel Haeck (St Catharines-Brock):** May I call you Brother Campbell?

**Mr Campbell:** Yes, please.

**Ms Haeck:** Thank you. Having spent 15 years in CUPE, I have a feeling I can do that. Can I just ask quickly where your strike location is, what company it is?

**Mr Campbell:** North Bay, called Nordfibre. It's a fibreboard plant.

**Ms Haeck:** In light of the fact that most strikes are ended amicably in a fairly short period, do you feel that the kind of legislation we're proposing as a government would see dispute resolution speeded up and coming to a solution a whole lot more quickly and more amicably? Would that be something your work site, your coworkers, would feel positively about?

**Mr Campbell:** Yes, it is. Like I said before, it's ridiculous to have somebody stay on strike for this amount of time.

**Ms Haeck:** Has there been violence on your strike?

**Mr Campbell:** No, it's been peaceable, but it's because the employer hasn't tried to bring in scab labourers. He was told if he did, there would be trouble on the line. As a result, the particular company has been shut down completely for three years. Now, he's done everything in his power to make us walk off the line. Like I said, we've been there three years. We started with 80 employees and we're down to 63 now. One brother, 58 years old, died two weeks ago. Like I said, the hardships are enormous on our picket line, with brothers in the hospital due to stress, strokes, heart attacks, and just two weeks ago, the brother wanting to shoot himself over the pressures from the strike.

**Ms Haeck:** Thank you. I'll yield to one of my colleagues, if I may.

1410

**Mr Stephen Owens (Scarborough Centre):** In my family, my father's side was born just south of North Bay in Powassan and migrated to the great northern city of North Bay. They've lived there all their lives. In speaking to them, they are actually quite pleased that this legislation is coming through. They are working people like yourselves who have certainly benefited from the availability of the collective agreements.

The previous presenter talked about the fact that if the legislation is passed and workplaces become further unionized, there's going to be an erosion of the social services we have in place now. It's my view that it's been as a result of unionization that we have had the good level of social services and the kinds of benefits that unions advocate for. Could you give me your opinion on that?

**Mr Campbell:** Yes. The speaker before me said that 60% of non-union workplaces don't reach full potential because they're not unionized. Let me give you a good example of what happens in a non-unionized shop, and I'm sure everybody's well aware of this: the Westray mine in Nova Scotia where 26 miners lost their lives. If there had been a union in place there, I can tell you right now that those 26 miners would still be alive today.

**Mr Owens:** If you look at a workplace like the Northgate Mall, for instance, what percentage of the workers there would be women?

**Mr Campbell:** Just about everybody.

**Mr Owens:** What would be the average wage of those women?

**Mr Campbell:** It depends on their length of service. My wife works part-time in the retail sector and she's been there six years now. I think she's making \$7 an hour.

**Mr Owens:** How would you see this legislation benefiting people like your wife and the other women she works with in Northgate?

**Mr Campbell:** It would better their standard of living. That's what it's all about. It's not about dollars and cents; it's about a better standard of living for the working people. Working people need and ought to have that standard of living.

**Mr Pat Hayes (Essex-Kent):** We have some statistics that out of 94 strikes, I believe, there was no violence in 60, 29 had minor incidents and five had major. Of the 34 where there was violence, 25 took place in plants that were operated during a work stoppage. If this legislation that would ban replacement workers were in place today, do you feel it would make a significant difference in violence on the picket lines?

**Mr Campbell:** In the first place, the altercations that happened would not have taken place because there would be no incident to cause it. The workers are frustrated enough by being treated unfairly. Like the first speaker said, it's not all employers and it's not all unions; it's some. If it's 4%, then 4% is too much. When it comes to violence on the picket line, never mind dollars and cents; if we lose a life, 4% is too much.

**Mr Ward:** The previous presenters mentioned the need for cooperation between labour, business and government, that we should all be marching down the same road if we're going to overcome the economic challenges we're facing. I agree with that philosophy. You've been president of the labour council in North Bay for how long?

**Mr Campbell:** Two years.

**Mr Ward:** And you've lived in North Bay for how long?

**Mr Campbell:** Fifteen years.

**Mr Ward:** Do you sense that there is greater cooperation today in 1992 than there has been in the past? Are we beginning to understand that the adversarial approach isn't going to work and that in fact we do have to learn to cooperate with each other?

**Mr Campbell:** If and when we can, we should. I agree with that also. Like I said, we took the first step in this year's Labour Day event by asking the city and the chamber to be involved with us. A feeling of trust has to come from somewhere and somebody has to make the first step. This is what we thought: If we could get along on this day, then let's do it, by all means. The day is for the working people, businesses, whatever, to come out and enjoy themselves. We're just going to leave it at that. That's what the day is for. Yes, if we can get together, let's get together.

**Mr Offer:** Thank you for your presentation. I just wanted to get something clear in my mind. You say you've been in a strike position now for three years, there haven't been any replacement workers used and the company is no longer there.

**Mr Campbell:** The company is still there. It's not operating.

**Mr Offer:** How long has the company not been operating?

**Mr Campbell:** Since the day we went on strike.

**Mr Offer:** I have some questions as to whether the company will start up or not at the end of this stoppage, but that may be for after the presentation, unless you want to help me out on that. Obviously people here are hearing that you've been on strike, striking a company that has not been in operation for a number of years, which this legislation would not change one way or the other.

**Mr Campbell:** It just goes to show you how much hardship the union has put on the employer. We hadn't had a raise in that workplace since 1987, and the employer wants us to go back to what we were making in 1987, \$11 an hour at that time for myself. We haven't had a raise since then, and he wants me to work for 60% of \$11 an hour, which would automatically put me below minimum wage. No benefits, no right to recall, no seniority in the workplace. It's those initiatives that forced the walkout at our place. It's not because we wanted to go out. Like I said, it's crazy for an individual to put his employer out of business. It was orchestrated so that was the only avenue available to us and we had to take it.

**Mr Offer:** You'll know that I'll have some questions about this, because what we're talking about here is a



strike in front of a company that has not been in existence. I understand the bargaining that has been going on, but this legislation obviously would not help one whit.

**Mr Campbell:** It won't help our strike, but it'll help something in the future. These amendments to the labour law will make sure this doesn't happen to workers in the future.

**Mr Offer:** If I have a few moments, let's talk about that. You used your wife as an example; you said she was in the retail sector. In response to a question, you indicated a certain number of dollars per hour; I think you used \$7. Where in the bill would an individual such as your wife be helped?

**Mr Campbell:** By being treated fairly and with respect in the workplace.

1420

**Mr Offer:** I'm asking for some help in this area because we're hearing a variety of comments on the legislation, and for the life of me—let me be very frank—I cannot see in this legislation where an employee in your wife's position would be helped one bit. There are other pieces of legislation, the Employment Standards Act and a whole variety of things I could actually point to, but I'm wondering if you would share with the committee how this legislation would be of some help to your wife, where that \$7 would be \$12.

**Mr Campbell:** It comes under the right to organize. When people wanted to organize and had discussions in the store, some people were threatened that they were going to lose their jobs. Other employees were given every demeaning job in the workplace and undue pressure, intimidation and harassment were placed upon them. This would cease, and that's where it would help those employees.

**Mr Offer:** I have another question that leads from that very response. During our hearings, and we're now entering our fourth week, we have heard from a number of people that if an employee wants to unionize, if that be his or her wish, great. Let the employees cast their votes, yes or no, in a free vote, fully informed and free from any coercion, and if there is coercion or intimidation, let the employer—or the union, in fact—suffer a penalty. I'm wondering, again thinking of your wife's situation, whether you would be in favour of a free vote of employees in a workplace, that if the majority of them wished to be unionized, so be it.

**Mr Campbell:** Like I stated in my brief, it should be every worker's right to organize if she wishes to do so by a free vote.

**Mr Offer:** Thank you.

**Mr Brown:** Just so I can be clear, a free vote—

**Mr Campbell:** Where they are not intimidated.

**Mr Brown:** —I assume would be a secret ballot vote.

**Mr Campbell:** It doesn't have to be a secret ballot vote. If you go in and you sign cards, then you know right off the bat who wants to and who doesn't want to. There shouldn't be anything hidden about it and people shouldn't be made to think, "There's something going on here if I have to have a secret ballot." If you sign cards and more

people are in favour of it, then let's have a vote on it, and if they so choose, majority rules.

**Mr Brown:** So what you're looking for is a lower threshold for signing cards to force a vote.

**Mr Campbell:** All we're looking for is to get rid of the intimidation process and leave it up the individuals whether they want to or don't want to.

**Mr Brown:** That's what I would like to see, to remove coercion from both sides, because we've heard a number of presentations that there has been some intrusion on the rights of employees by their employer. The question we've been pursuing is the secret ballot vote, because we're politicians; that's how we're elected and that's how society in Canada and indeed in Great Britain, the mother of our system, has decided things are decided, that the best way to ensure no coercion is the secret ballot. As a politician who is elected that way, it seems to make eminent sense. Do you have a problem with the secret ballot, with a rather low threshold to trigger it, so that there isn't the opportunity for coercion?

**Mr Campbell:** I agree that coercion should be eliminated on both sides. If an individual is going in to organize, people have to sign cards. There's no intimidation. If a person wants to sign a card, he signs a card; if he doesn't want to, he doesn't. Whether it be a secret ballot or not, as long as coercion on both parts is eliminated, then the individual exercises his rights and votes whatever way he likes.

**Mr Chris Stockwell (Etobicoke West):** Your answer seems somewhat a paradox. You don't want coercion or intimidation. It seems that the perfect way to eliminate those would be through secret ballot. Then the employer may not coerce, nor would those who would like to form a union. You see, this is my fundamental difficulty with this portion of the legislation. We want to have people vote their mind. What better method is there than the secret ballot?

**Mr Campbell:** Why should we hide the fact, if people have already signed cards and if they're in favour of it?

**Mr Stockwell:** I guess the problem I have is that you are assuming there's no coercion or intimidation on the union side and it's all on the ownership side.

**Mr Campbell:** I'm not saying it's on either side; I'm saying we should eliminate it whatever side it's on.

**Mr Stockwell:** But this is the paradox. You're suggesting that by signing a card there is absolutely no intimidation or coercion to sign that card.

**Mr Campbell:** No, we removed that \$1 fee. At one time you charged the workers a—

**Mr Stockwell:** I don't think a dollar has anything to do with what I'm asking you.

**Mr Campbell:** But then they're exercising their right; they're voting with their conscience rather than buying into it. They don't have to feel that they're buying into it or they have to do anything into it.

**Mr Stockwell:** With all due respect, you've missed my question. My question isn't about the buck. My

question is: There could be coercion on the union side; there could be coercion on the management or ownership side. By signing a card, there could be some intimidation involved. By forcing them not to sign a card, on management side there could be some intimidation involved. Would it not make sense to you to remove all coercion, to remove all intimidation, that by secret ballot that person can vote without any fear of reprisal from either side?

**Mr Campbell:** In the first place, I don't know how you would get anybody to go in and vote without knowing that they first wanted to belong to a union.

**Mr Stockwell:** You trip the system by the number of cards, the percentage, and then the vote would take place. It doesn't seem that complicated to me.

**Mr Campbell:** I don't believe it is a complicated issue. To get to the bare facts, it comes down to the individual. Whatever way they want to exercise their right to vote, it's not for me to say that they should have a secret ballot or they shouldn't, but rather the individual. If they so choose, so be it.

**Mr Stockwell:** But I'm asking you your opinion.

**Mr Campbell:** I can't speak for those individuals. What I'm saying is that you would ask those people, and whatever they wanted, that's the way we would do it.

**Mr Stockwell:** So you ask the people who've signed the cards whether or not it should be a secret ballot?

**Mr Campbell:** If they agree, majority rules; we would go with the majority. You ask people the question and give them the choice, as long as the choice is there and it's their choice to make and no pressures from anybody else. It's your choice if you want to go this way or your choice if you want to go that way. I'm not telling you how to do it; you make up your mind and tell me how you want to proceed.

**Mr Stockwell:** In the end, it's rather puzzling for me to understand why anyone in a democratic country would be opposed to a secret ballot; puzzling indeed.

**The Chair:** Ms Haeck, very briefly, please.

**Ms Haeck:** Mr Campbell, have you ever been involved in a union organization drive where in fact a vote took place?

**Mr Campbell:** Yes.

**Ms Haeck:** It may allay Mr Stockwell's fear to know that where there is any question about the intention of workers, in your and my experience, the vote is in fact held as a secret ballot, is it not?

**Mr Campbell:** Yes.

**The Chair:** Mr Campbell, I want to tell you on behalf of the committee that we thank you and the North Bay and District Labour Council for your attendance here and your participation. You represent a significant constituency and we're grateful for your interest and your eagerness to come and speak to this committee. We express our gratitude, and have a safe trip back home.

**Mr Campbell:** Thanks a lot.

**The Chair:** Take care.

## 1430

### SAULT STE MARIE CHAMBER OF COMMERCE

**The Chair:** The next participant is the Sault Ste Marie Chamber of Commerce. Those people will please come and have a seat. We've got your written submissions; they form part of the record by virtue of being made an exhibit. As you've been able to note, as often as not it's the exchanges and dialogue that take place that are an extremely valuable component; try to save the second half of the half-hour for that.

I also would note that the legislative research service research officers have filed their research concerning data on strike replacement workers and the use of violence, dated August 21, 1992. If people in the audience want a copy of that, get hold of the clerk or his assistant, Mr David Augustyn, from Port Robinson Road in Thorold, who will provide you with a copy of that. Go ahead, people from the Sault Ste Marie Chamber of Commerce.

**Mrs Liisa Peer:** Hi there. My name's Liisa Peer and I'm the president of the chamber of commerce, and this is Mr David Cameletti. He is one of our volunteers and a member of our organization. He has been a big help in terms of research into this bill.

It's unfortunate that the honourable minister could not be here today. The last time we spoke, he was in Sault Ste Marie in February, and it would really have been nice to have spoken to him again. Just a comment.

**The Chair:** Well, you get to speak to us.

**Mrs Peer:** That's right, and I met you in Sault Ste Marie, remember? We brought you up. The chamber of commerce brought Peter Kormos up to the Sault.

**The Chair:** I hope you're not disappointed. I hope you weren't disappointed then.

**Mrs Peer:** No, not at all.

**The Chair:** It makes the Premier nervous, though.

**Mrs Peer:** Members of the committee and ladies and gentlemen, I am pleased to present a brief today on behalf of over 650 members of the Sault Ste Marie Chamber of Commerce.

The chamber of commerce is the leading business organization in Sault Ste Marie. It is a non-profit association of business and professional people and other people who share some of their viewpoints. Its primary purpose is to promote the economic prosperity and the social and civic interests of the community.

The community of Sault Ste Marie has in recent years been experiencing the woes of recession: strikes, cross-border shopping, record unemployment and record bankruptcies. In this increasingly global economy, we, the chamber of commerce of Sault Ste Marie, ask the government of Ontario to answer how the proposed legislation benefits a sluggish economy. Most important, how does the legislation create jobs?

The Ontario Labour Relations Act as it exists now is equal to or better than any other labour legislation in North America. There's no evidence that major reforms are needed at this time or that they're desired by the people of Ontario. We've asked the government on numerous



occasions to offer us some sort of statistical data or surveys to show that the people of this province want and need these changes.

Sault Ste Marie businesses and businesses across the province are trying to survive through the worst economic conditions in decades. They are attempting to become more competitive and productive as a result of global market pressures. The new legislation negatively affects the ability of business to survive and create jobs.

The amendments represent a dramatic shift in labour legislation, a response to pressures from the union movement, to the detriment of business and individual employees. The changes will not create a single job or generate one dollar for the economy. The OLRA amendments are the wrong approach at the wrong time.

The Sault Ste Marie Chamber of Commerce requests the government to reconsider this legislation. Practically and psychologically, the legislation damages business confidence, discouraging investors and drives business out of the province.

There was an Ernst and Young impact study done in February and we presented this at that time, but I don't think the statistics have changed and I do believe they have to be reiterated one more time. Let's do it again.

Ernst and Young surveyed 251 Ontario firms in mining, forestry, manufacturing, construction, transportation, finance, insurance, real estate and trade, as well as 50 large North American firms outside Ontario, primarily in manufacturing. There would be 495,000 Ontario jobs lost as a result of this proposed legislation. How can we lose one more job in this province? There would be \$8.8 billion of investments lost over a five-year period. Even assuming the government doesn't get in power the next time and somebody else gets in government, my goodness, we would still be changing this legislation; we'd still be living with the effects of it five years from now.

Of the firms surveyed, 85% expect the proposed changes would weaken their ability to compete from an Ontario location. Of the Ontario firms surveyed, 73% expect the adoption of the proposed labour legislation would result in a loss of some or all of the jobs they currently provide in Ontario. Over 84% of the firms surveyed expect the proposed changes would reduce their planned investment in the province over the next five years. Respondents generally rate Ontario labour costs as higher than those of competitors outside the province and believe unionization is harmful to their competitiveness.

The chamber believes the legislation will have the opposite effect to what the government has indicated it wishes to accomplish. Your goals and objectives are good ones. We are not arguing with those goals and objectives. However, we are arguing with the fact that these goals and objectives will not be met by the way you're trying to push this legislation through.

Rather than fostering cooperation between the workplace parties, the proposals will create unrest, litigation and generally confrontational attitudes. I would cite the fact that Quebec, which you say has a successful labour relations record over the past 15 years, has had more strikes, more litigation and more costs incurred on both the

union's part and on the part of business, so how can you say they've been successful? How can you say more strikes is being successful? More strikes is not successful. That's what we're trying to eliminate.

We don't want those kinds of things happening in our workplace. We want to negotiate our agreements. We want to be able to come to a compromise, and that's what we're asking you, the committee, to do with business. If you're asking business to compromise and be able to negotiate agreements with their workers, why can't you, the government, compromise and work with us as business people? We drive this economy.

This gentleman in the back—I'm making an impassioned plea here. We were going to be a little bit more down to the line but I felt so impassioned by this gentleman's comments before us, saying "the working people." We are working people. Business people are working people too. I make a lot less money than most unionized people do in this province and I'm a business person. My husband makes less; he's a management person. He makes \$15,000 less than the man he supervises in a unionized environment. Who's to say that unionized workers are getting a raw deal?

I can get a little upset about this, as you can see. Anyway, we're going to highlight a few of our concerns with the specifics on the issue here, number one being the prohibition on use of replacement workers during a strike. The chamber wishes to point out that this aspect of the proposed labour legislation amendments raises the greatest concerns for us because this amendment clearly places businesses at a disadvantage. Non-bargaining-unit employees and managers are not required to perform the work of striking or locked-out employees if they do not consent to do so. This makes it extremely difficult for an employer to continue bargaining-unit work during a strike if the remaining employees are unionized but not on strike. Such employees can simply decline to do bargaining-unit work. This piece of legislation holds business hostage to the whim and will of labour unions.

Second, the union is not required to satisfy itself that it has maintained the support of a majority of the workers throughout the course of the entire strike. By way of illustration, a strike vote may be conducted when negotiations between management and the union are particularly intense and feelings of the workers are particularly hostile against the employer. After the strike is called, however, there is no requirement that a subsequent vote be held to ensure majority support for the strike, even though most of the employees may not want to remain on strike. Moreover, during the course of bargaining, the union has a significant advantage in the bargaining process because it does not have to consider the possibility that the employer will go out and hire other employees or transfer in other employees.

Small business—what drives this province is small business, I would like to reinforce here—is particularly vulnerable to this type of provision. Employers with small workforces may under present legislation be able to carry on with the help of family members or other replacement workers from outside in order to ensure that the business

carries on. However, the prohibition of bringing in any outside workers effectively means that a business subject to a strike will be paralysed. The chamber wishes to draw the attention of the members of the committee to the fact that many businesses are vulnerable to the loss of markets if they are unable to meet their customers' demands.

Another distressing aspect of the legislation represents the complete loss of choice for employees who are on strike. This shows a substantial slant by the legislation in favour of trade unions and away from individuals. Individuals will no longer be able to exercise their freedom of choice and cross the picket line.

Imposition of terms of agreement by labour board or boards of arbitration: This is our second bone of contention. Under current legislation, as you know, the power of an outside party to impose terms of settlement upon a party, except in first-contract situations, is non-existent. The labour board only becomes involved in first-contract situations where certain preconditions exist. Basically the labour board has to be satisfied that the employer is refusing to recognize the bargaining authority of the trade union, is taking an uncompromising position without reasonable justification or is not making reasonable efforts to conclude a collective agreement.

Bill 40 now provides for outside intervention by the labour board in certain situations where there is a breach of duty to bargain in good faith. Currently, if an employer is found to be bargaining in bad faith, the labour board orders it to cease and desist from such behaviour. Under Bill 40, an employer in bargaining now faces the risk of a complaint before the labour board by the union and the possibility that the board may impose certain terms on it. An employer taking a strong position in bargaining is particularly susceptible to such a union tactic.

The chamber wishes to underline its concerns that this added power will have the effect of rendering many collective bargaining negotiations into mere formalities and that unions will attempt to have their negotiations settled before the labour board instead of in the negotiating room where these should be resolved.

1440

Access to third-party property: A number of our members are extremely distressed about the fact that the third-party property most likely to be affected by this amendment will be shopping malls where many people can be located. Allowing access to third-party property for the purpose of organizing and picketing will have unfortunate consequences for the public, for the other surrounding businesses that don't have anything to do with the labour dispute, and certainly will discourage shoppers from entering that particular mall if they feel they have to be involved in a labour dispute of any sort.

We also are concerned with the erosion of the freedom of choice for individuals over unionization and also the changes to the security guard portion of the current legislation, where they're required to be represented in a separate bargaining unit. We feel they should still be allowed to do that. It certainly compromises the security of the situation if you have to ask a security guard to be there during a strike and these are his fellow brothers and sisters on the

line. It's certainly not fair. It's not fair to management, it's not fair to the security guards and it's not fair to the public that requires security in these particular situations.

We're also against the lower threshold for certification—again, if labour is into the democratic process, then why isn't 50% good enough? Why does it have to be 40%? I thought a majority was 50%. My math could be wrong—and, again, automatic certification, erosion of collective agreement negotiations and, last but not least, the purpose clause.

I'm a little bit concerned when the primary purpose of the Ministry of Labour or the board of labour is to encourage, enhance or facilitate the organizing of collective bargaining. I thought this particular board was supposed to be an independent adjudicator. I thought they were supposed to sit there and weigh both sides of the situation and figure out, "How can we bring these two parties together?" But in this situation, as I see it coming up, it won't be so. It will be a commandment from above. The unions will get what they want. Where do negotiations, where do compromises, where does cooperation come in?

I ask you if you have any questions.

**The Chair:** Thank you, Ms Peer. Mr Martin, five minutes, please.

**Mr Tony Martin (Sault Ste Marie):** Good afternoon. It's nice to see you again, Liisa and David.

**Mrs Peer:** We've been seeing a lot of one another.

**Mr Martin:** That's right.

**Mrs Peer:** We've been lunching together.

**Mr Martin:** I commend you for coming forward in your usual straightforward manner and laying it out for us without pulling any punches. I think we in Sault Ste Marie have become somewhat known for not being afraid to state our opinion where we feel it's important.

However, in the last year or so we in Sault Ste Marie have become known for something else I think is of certainly equal importance if not greater importance, and that is the fact that the United Steelworkers of America got together with its management team to save that company and save the jobs of thousands of people in our community and basically the economy of our community.

In light of some of the general comments you made, Liisa, I just want to ask one question and then perhaps another one. The fact that this legislation is the wrong legislation at the wrong time: In light of the difficult economy that we're in and some of the things that are coming at us, particularly, as you indicated, in Sault Ste Marie with the cross-border shopping and all of that, I would think it behooves us to build partnerships where we can and in ways we can.

In my experience over the last two years, our government has certainly in more ways than one bent over backwards to try to help the business community of Sault Ste Marie. There isn't anything that I've gone to the government for on behalf of our community—and most of it was business-oriented—that we didn't get by way of investment in our community: the infrastructure and making sure that people had money in their pockets to spend to keep businesses going during this difficult time.



Don't you think that now the major partner in the restructuring of Algoma Steel—and I suggest to you, it being that Sault Ste Marie is a union town in the economy of our community, they're asking for some things they feel are important so that they might come to the table with some degree of confidence that their voice will be heard in the same way as business is; that giving them that voice and that consideration, which is what we think we have here—and certainly affirmed by the unions themselves—in this package of legislation, will in fact not only save jobs but in the long run, as Algoma Steel and other companies learn to cooperate with their workers in ever more creative ways, create jobs and help our economy recover? Isn't this the right time?

**Mrs Peer:** I don't think it's the right time, because what people require for jobs, for people to invest dollars in a particular community or a particular province is confidence, as the gentleman from the North Bay Chamber of Commerce was saying. They need confidence in the fact that this province will be surviving and will be continuing and that there is a feeling of partnership between government and business. Business does not feel that and therefore, if there's no confidence on the part of entrepreneurs to invest their dollars, then how can there be jobs created?

Jobs are created when industry and business are successful, when one guy or one woman with a single idea has this thing: "Okay, I can make this widget, and this widget is going to be sold across the world." He or she starts with this one idea and it goes from there and they have to add people. Those extra jobs will be created when this guy says: "Okay, I can make widgets in this town. I can make tons of widgets in this province."

That's how a strong economy, a confident economy, one that is let to be a free market economy, will be a healthy one. One that's not interfered with by government will be a healthy one, and therefore jobs will be created.

How we're going to benefit women in the workplace, how we're going to benefit people in the workplace, period, is with a healthy economy, not through legislation, not through government putting its hand into things that it shouldn't be in. It's from their letting business be business and to have ideas and to be entrepreneurial. That's how we can create jobs, not with a piece of legislation that dictates to business, saying, "This is what you have to do." No, it doesn't work.

**Mr Martin:** I suggest to you, Liisa, that if government had in fact let business be business, you'd have a far different Algoma Steel today than you have, because business took some leadership, listened to the United Steelworkers of America, recognized the intelligence and the experience and the knowledge that was there, put it together with the resource that was available through the already existent management and the vested interests in that company. In partnership, the union, business and government, we now have a restructured company in Algoma Steel that will take us confidently into the next century.

**Mrs Peer:** David has a comment on that.

**Mr David Cameletti:** Tony, no one questions the value of working between union and employer. We have to

realize, though, that in large part what led to the current relationship between the unions and the Steelworkers was a bitter, adversarial, four-month strike.

**Mr Martin:** I'd suggest to you that it wasn't the strike. I'd suggest to you it was the economy, and it was Dofasco making a decision that the union said no to.

**Mr Cameletti:** There were a number of factors. I had clients during that particular strike when we had fights in the courts because of what was happening on the picket line and that type of thing. I'd suggest that the adversarial part played a large role.

**Mrs Peer:** The other comment I'd like to make too is the fact that we're talking about Algoma Steel, a large company, whereas the majority of businesses in Sault Ste Marie and the majority of businesses in this province are small business. They're non-unionized. We do different kinds of things to foster cooperation between business and the workplace.

For example, I'm in the retail business. We have 15 employees. We work on a different kind of premise. We keep all of our books wide open. We ask our employees about input in terms of what we should be purchasing for resale. We ask them what we should be buying in terms of our infrastructure and our technology and what we're going to invest in. We also have a bonus-sharing program where when we prosper, they prosper. What an amazing concept.

1450

Why can't this be taken a little bit further into the unionized workplace? Why has it been that unions have been so dead against a bonus- or profit-sharing program? When businesses are suffering, I don't think they have to continue to come to these very costly labour agreements, but when things are really good, they should be giving things back to their employees. There are a lot of innovative employers and business people out there who agree with this.

Business people want to have happy employees. They want to have productive employees, number one. Number two, how do you have productive employees? If they're happy, if they're paid well, if they're compensated properly for the job they're doing and they can share in the profitability of the company. That's what we do as a business. I don't think we can have only instances of unionized settlements here. Why does all labour in the province have to be unionized in the first place? My people are very happy at my company. I could bring 15 people up here who could say that under no duress.

**The Chair:** Thank you, Mrs Peer. Mr Offer and Mr Brown.

**Mr Brown:** Thank you, Mr Kormos. Being the only northern MPP here on the opposition side—

**Mr Owens:** We're working on that too.

**Mr Brown:** I know you are.

First, I'd like to thank you for coming to Sudbury to make this presentation. I point out that I've been a part of two previous bills dealing with the Labour ministry and this particular one chose not to go to Sault Ste Marie,

although the two previous major bills chose to go there. This bill will see more submissions not made verbally than any other bill ever debated in this province.

I would like to tell you also that this bill was presented to the Legislature on the same day as rule changes, to make sure this would be on the choo-choo train and finished in record time, beating any other bill relating to labour relations by at least eight months in terms of the time it took to get passed.

Having said that, I want to pick up on the Algoma Steel situation, because it's one that we are all very interested in. I think it's important to recognize that we are all in favour of the worker capitalism proposals that are in place at Algoma Steel today and believe that employees should be able to take advantage of buying into their companies.

I'm surprised, however, that the Ontario Federation of Labour opposes such things, and that makes me a little bit leery. We're happy that Algoma's now back and operating and we hope it will be successful, because now the taxpayers of Ontario also have a large stake in the success of that company. As northerners, I think we all appreciate that. Broadly speaking, do you see the balance?

I have asked various presenters for the signposts. Why do we need this legislation, and once it's through, how do we know that it's working? What signposts are there for somebody who's a generalist and who's objectively looking at the statistics? What is there so that three years from now I can say, "Yes, there are less strikes perhaps. Our workers are better off"? What signposts would the chamber suggest are relevant in terms of assessing whether this worked?

**Mr Cameletti:** Mr Brown, you may look at the percentage of the non-agricultural workforce in Ontario that is unionized. Currently, a recent article in the Toronto Star said it was holding at approximately 38%. That's for the sectors regulated by the Ontario government. If you compared that to most jurisdictions in the United States, where approximately 18% of the non-agricultural workforce is unionized, you could see that the present legislation in Ontario has certainly allowed the unionized workforce to get a significant hold of Ontario workplaces.

We suggest you may want to look at the percentage of non-agricultural employees who are unionized. That's one way in which you can measure how far along. Then you juxtapose that with the average wage for employees in Ontario, the standard of living, and you can measure that by the Statistics Canada basket of goods, cost of housing, inflation rate. You measure that against what the wage increases are and then you can perhaps see if it's gone up or down. Lastly, you can look at the unemployment rate, whether it's gone up or gone down.

**Mrs Peer:** Probably the investment dollars as well.

**Mr Villeneuve:** Thank you very much for being here. I represent a border community, as you hail from. The border community that I represent is out in southeastern Ontario where we border both New York state and the province of Quebec.

We've had a number of businesses come from Quebec to Ontario because of more severe labour laws in Quebec.

I understand that there are some businesses in northern Ontario looking to the US or to Manitoba. Is this your experience?

**Mrs Peer:** As a business person, a retail person, and president of the chamber of commerce, I've certainly talked to a number of people who are looking at investment opportunities on the Michigan side, because that's where everybody wants to shop. That's where all the unionized people want to be shopping and getting their lower dollars, over there, and all their lower gas dollars are being spent over across the river. Why should business people not be setting up shop over there where the cost of doing business is a lot less? Certainly that is the case.

There's going to be this huge Wal-Mart, 140,000 square feet of Wal-Mart being built across the river just posed at Sault Ste Marie. They're going at it strong, and Canadians are thinking about going into that mall. It's a survival tactic.

**Mr Villeneuve:** Is Manitoba also attracting them? I know from the province of Quebec, any possible or potential moves to Ontario are on hold until such time as they see what will happen with Bill 40. I do know that in Quebec there have been as many strikes as, if not more than, in Ontario, and there tends to be more violence. Is this your experience? I noticed you touched on it. Have you done some surveys here?

**Mrs Peer:** Yes. I think David can take that on in terms of there having been more strikes in Quebec than there have been here.

**Mr Cameletti:** Yes, Mr Villeneuve, our statistics show that in the last 12 years the province has had more strikes than Ontario, involving double the number of employees. Quebec has also had 20% higher person-days lost, even though its workforce is 20% lower. Between 1978 and 1982, capital expenditures in Quebec rose 26%, while in Ontario they rose 50% during the same period. Employment in Quebec during that time frame rose 4%, while in Ontario it rose 8.9%. I can go on.

**Mr Villeneuve:** Thank you. I think that says it all.

**Mr Stockwell:** I suppose one of the questions I'd like to ask you and get your reaction to is that one of probably the most gutless things that I think this government has done is—

**Mr Ward:** One of them?

**Mr Stockwell:** One of them. This one ranks up there, though. One of the most gutless things that they've done would be to introduce this legislation, pooh-pooh any studies that anyone has done, from the Ernst and Young study and so forth, and consult and study practically everything. If it moved, they studied it. They consulted. They did any number of things, except that on one of the most major pieces of legislation that has come forward during their tenure, they've chosen to do absolutely none, zero, zip, not a minute of public study, private study, any study at all, and if anyone puts forward a study, they pooh-pooh it.

I guess I'd like your reaction. Why would a government that's bringing forward this kind of legislation—I have my



own feelings—pull such a gutless stunt as to not at least measure the effect of the legislation on the people of Ontario?

**Mrs Peer:** You're putting me in a hard situation here, because what I would like to say personally is a little bit different than what I should be saying publicly, but here goes anyway.

**Mr Martin:** Why change now?

**Mrs Peer:** Why change now? I feel this particular government has some dues to pay in terms of the people who have supported it in this province since its inception, and I feel it has to pay some political dues to the union movement in this province. I believe that the union movement has been suffering because the majority of jobs that have been lost in this province have been unionized jobs, and therefore they're looking for more membership dues. What better way out than to try to get to a different part of the economy such as the service sector and the retail sector to try to get new members?

Therefore, having to pay political dues to the union movement, this is what's going through in passing this bill. Again, I just say, looking for some compromise here, looking for some negotiations, if you're looking for an answer for what we can do between now and then, if this bill's going to pass, let's not just talk here; let's actually do something. Let's get some stuff on paper; let's try to come to some negotiated agreement, not a dictated agreement.

**The Chair:** Thank you. I want to thank the Sault Ste Marie Chamber of Commerce and you, Mr Cameletti, and you, Ms Peer. You have spoken on behalf of your membership articulately and creatively, and we appreciate your coming here this afternoon. We're most grateful to you. Have a safe, comfortable trip back home. Take care.

**Mrs Peer:** We'll be here for a while. We'll be watching.

**The Chair:** You're welcome to stay and watch.

1500

#### SAULT STE MARIE AND DISTRICT LABOUR COUNCIL

**The Chair:** The next participant is the Sault Ste Marie and District Labour Council. Please seat yourselves. We've got your written submission. Tell us your names, your titles, if any, and then carry on with your submission. You note how valuable the exchanges and questions are. Please try to save time. Go ahead, people; time is fleeting.

**Mr Bob Richards:** Good afternoon. My name is Bob Richards. I'm president of the Sault Ste Marie and District Labour Council. I'd like to thank the committee for the opportunity make this presentation on behalf of the labour movement in the Sault Ste Marie area. After I make a few comments, I will introduce my copresenter who will share with you her recent experiences on the picket line.

Before I get started here, though, there are a couple of things I'm not going to let go by. One statement was made by, I believe, Mr Brown about the OFL and Algoma Steel. I'm an employee of Algoma Steel. OFL has never made any statement against employee ownership of Algoma Steel. I don't know where you got this information, but it's

misinformation. As a matter of fact, the president of the Ontario Federation of Labour told me quite some time ago that he supported this and he's just confirmed with me a couple of minutes ago that he definitely supported the employee ownership. Another thing that disturbs me is again the chamber of commerce and the labour council disagree on many items and that's unfortunate.

I'd like to begin by stating that it is time for labour law reform in this province. The present Ontario Labour Relations Act reflects the needs of a primarily male workforce employed in large manufacturing plants. Today the composition of that workforce has changed considerably and there are greater numbers of vulnerable employees including women, part-time workers and minority groups who work in the growing service, retail and financial sectors of the economy. These workers are entitled to the protection and the benefits that unions can provide. The proposed amendments will remove many legal and practical obstacles that impede a modern workforce from exercising its right to bargain collectively.

OLRA reform will ensure that workers can freely exercise their right to join and be represented by a union without intimidation and threats from the employer. Access to third-party property for organizing purposes and quick hearings to determine whether an employee was illegally disciplined or discharged during an organizing campaign will assist and protect workers who wish to join a union. Automatic access to first-agreement arbitration 30 days after a legal strike lockout date will eliminate lengthy labour disputes immediately following certification.

Anti-scab legislation will facilitate serious negotiations and provide for a more harmonious relationship between the parties. The ban on replacement workers in Quebec enforced since 1978 has been successful in reducing picket line violence and has played a part in improving labour management relations in that province. We have, however, serious concern with the provisions to allow non-bargaining unit employees who normally work at that struck location to perform the work of the striking employees. The legislation gives those employees the right to refuse such work, but non-unionized employees who exercise that right will probably find themselves either descending the corporate ladder or even dismissed from the company for some other reason. Also missing in the new legislation is the right for other bargaining-unit employees to refuse to cross a picket line at their places of employment.

Another area where we disagree with the chamber: Access to third-party property, such as inside shopping malls, for peaceful picketing at entrances and exits of the store involved in the labour dispute, will benefit other merchants in that mall. The present system of picketing mall entrances reduces the number of shoppers in that mall as many people will not cross the picket lines at the street.

On September 6, 1990, the people of Ontario democratically elected an NDP government. Almost immediately after the election, big business and multinational corporations began their smear campaign against the government. To fight the OLRA reform and discredit the government, they formed lobby groups like the All Business Coalition, the More Jobs Coalition, Project Economic

Growth and the National Citizens' Coalition. Led by Liberals and Conservatives, they've hired high-priced consultants and American advertising agencies. With the media on their side, these business coalitions are using every weapon they've got to attack Bob Rae and the New Democratic Party.

These business coalitions are spending millions of dollars fighting the OLRA reform. They don't want their employees to have the ability to join a union. They want to deprive their employees of the same privileges that many of their customers enjoy. They would rather spend their energy and resources fighting labour law reform instead of investing that same energy and resources in the workforce. We must remember that these are many of the same corporations that supported the free trade agreement and the GST.

Throughout history, business has stood steadfastly in the way of progress. For years, union members have fought for better laws and social programs for everybody including child labour laws, women's right to revolt, workers' compensation, unemployment insurance, pay equity, universal health care and even government-run pension plans. Even though the business community opposed these demands every step of the way, the needs of a modern and progressive society became a reality.

The big business elite and the multinational corporations will stop at nothing to regain control of Ontario for themselves. The small business owners in this community and across the province should work with organized labour to protect the interests of the people of the province instead of taking their directions from these anti-union coalitions.

If the chamber of commerce and the big business interests are truly concerned about the hostile environment that they say is being created in Ontario by OLRA reform, why don't they just back off on their campaign to discredit the NDP and work with the government that was democratically elected by the people of Ontario.

The Sault Ste Marie and District Labour Council supports the government of Ontario and labour law reform. It's time for government, business and labour to work together to facilitate economic recovery in this province.

Now I would like to introduce to you Elaine Della-Mattia. Elaine is a member of the Communication Workers of America, Local 746 and an employee of the only daily newspaper in Sault Ste Marie.

**Ms Elaine Della-Mattia:** Good afternoon. Like Bob said, I'm representing the Communication Workers of America, Local 746. We are 65 employees of the Sault Star who work in the editorial, advertising, circulation and composing room departments. We make up most facets of the newspaper.

I was a reporter with the Sault Star until I was locked out by management of the profitable Southam-owned newspaper nine weeks ago. That was on Friday, June 19, at about 3 pm when the bargaining committee called a meeting to update us on the lack of progress after two days of negotiations. Then-publisher E. Paul Wilson gave us five minutes to leave the building before he said he would call police and have us removed and/or charged with trespass-

ing. Union executives took that to mean we were being locked out.

Just two weeks earlier, during another meeting, Mr Wilson, who retired July 31, attempted to intimidate the unionized workers by calling police during our meeting and threatening to have us charged with trespassing for holding the meeting on private property. What he failed to understand was that we were in a legal strike position and had been working without a contract for nine months. The meeting was justified.

#### 1510

On June 19, we picketed the Sault Star offices for about three hours. Mr Wilson had said the paper would continue being produced by management, inside workers and part-time staff. He said scabs would not be brought in for the first week of the labour dispute. However, that following Monday scabs began crossing our picket lines and that led the union to believe that this action had been planned all along. These scabs are from other Southam-based newspapers, including Calgary, Montreal, Toronto, Hamilton, Brantford, Ottawa, Kingston, Kitchener, Owen Sound, North Bay and Windsor. Several local citizens have also been hired through job postings at the Canada Employment Centre office in Sault Ste Marie.

Management and inside workers at the Sault Star can produce the paper with the facets of modern technology and without the use of scabs for a short period of time. The Sault Star is the only daily newspaper in the city, so it finds itself without other daily newspaper competition.

Nine weeks is a long time to be on a picket line. The only reason we are still on that picket line is because scabs are doing our jobs. Without these replacement workers, the Sault Star would have settled this dispute nine weeks ago, before any of us ended up on a picket line. Why? Because the newspaper would not have been put out on time without a lot of extra hours put in by inside workers.

The company has spent at least \$500,000 on the publication and its replacement workers. They've rented a fleet of about a dozen cars from Avis rental; they're being housed at the Holiday Inn; bonuses and incentives are being offered to advertising staff; they've hired around-the-clock security at both the Sault Star offices and at the hotel and they're providing the scabs with three meals a day. That's not to mention a \$1,600 booze cruise that they took in Sault, Michigan, last Thursday night.

Our local mayor, Joe Fratesi, has said publicly on radio that he is appalled that the Sault Star has replaced local staff with scabs. In support of us the mayor cancelled his home subscription to the paper until the labour dispute is over. Sault Ste Marie is a labour town. Even when Algoma Steel employees went on strike, they were not replaced by scabs.

Russ Mills, president of the Southam Newspaper Group, says that newspapers are a perishable product and that replacement workers are saving our jobs. He also said that there's been no problem with scabs crossing our picket lines. I'm here to tell you that's not true.

There's been friction on the picket line since day one when the scabs began to filter in from across the country. Having them do our jobs is preventing the company I work



for from negotiating a fair contract with its employees. So far, no cars have been overturned on our picket line, but tempers are increasing every day. The company has hired security, which bolted through our picket line that same Friday afternoon, equipped with video cameras, two-way radios and timers. There's been one union employee who has been charged by police after an incident where a scab taunted him and used extreme profane and insulting language. Police have said they believe the scabs go in and out of the company property more than necessary just to taunt and provoke the picketers.

Meanwhile, the company is wasting taxpayers dollars by constantly calling police when picketers urge the scabs to go home or hold cars up for a few seconds longer than the agreed three-minute time limit. There have been days when police have had to show up at the picket line for these petty disturbances four and fives times. I'm sure their services can better be used elsewhere in our community.

As I speak right now, the bargaining team is meeting with the company after both parties have been called back to the table with a mediator. But I'm not sure if the company is interested in bargaining in good faith because they have no incentive to settle this dispute. The paper is still being produced by these scabs.

Last week, the paper's editor, Doug Millroy, carried a column about the proposed labour reform legislation that was self-serving, partly because his son, who was a member of our bargaining unit, crossed the picket line. The column clearly shows his panic if the bill is passed. The editorials in the newspaper, especially those printed just before the labour dispute began, have shown the same thing. They criticize the bill, saying the NDP should not take sides in labour disputes; the government does not understand business and will send more Ontario businesses to the United States.

Southam's new chief executive officer, Bill Ardell, has said he intends taking a hard line against unions, and although the Sault Star is a profitable paper and the only daily newspaper in Sault Ste Marie, he's sticking true to his word.

Before Southam bought the paper 18 years ago, it was locally owned by the Curran family. Most of what we have in our contract is because of the generosity of that family, not the large Southam corporation.

In the 51 years of having a union at the Sault Star, this is the first full-scale labour dispute. There's one photographer who marked his 40th anniversary with the company on our picket line. Many of the employees have been at their jobs for over 20 years.

We are out on the street with a company-instituted dispute. Southam is seeking concessions from unionized workers. These include the removal of the consumer price index, layoffs of full-time employees before part-timers and demanding that printers give up their job jurisdiction, but it refuses to negotiate the same deal as Southam agreed to elsewhere. The company is also refusing to increase advertising commission rates.

Union members have been offered a pay increase of 2%. Meanwhile, non-unionized staff received a 4% increase in pay in January. Advertising rates have increased

6% this year, but advertising sales staff are still making commissions based on the price of an ad in 1972, 20 years ago.

The Communication Workers of America, Local 746, feels Bill 40 is long overdue. Replacement workers have created extreme tension in what was once a decent place to work and scabs have shown that there's no incentive for the company to settle this dispute as long as work is being done by others. Something must be done to prevent businesses from using scab labour, and that something must be done now.

**Mr Offer:** Thank you for your presentation. I have a couple of questions in the time allocated. I believe it really comes from the presentation of Mr Richards.

You spoke about those who are opposed to the bill. There is no question that there are individuals from the so-called private or business sector who are opposed to the bill in some aspects, but I think you should be aware that groups such as the Ontario Association of Children's Aid Societies, school boards, local municipalities and local hydro services have also come before the committee and shared concerns about the legislation and what it means to them and the impact it will have on them. Just by way of comment, I get concerned when people are trying to polarize the issue as business being against and labour being in favour, because we've heard concerns from different unions about some aspects of the bill, and I don't think that really does characterize the widespread concern about aspects of the bill that we are hearing.

You have indicated that the access to third-party property will benefit merchants in the mall. I read that paragraph closely, and I'll be frank. I haven't heard one person who has said that he or she is going to be benefited by this. I think the reason they're saying that is that the legislation to picket and organize on private property is much broader than the mall setting. It would allow picketing and organizing within department stores. It provides no protection for a business in a mall that is not subject to the picketing or organizing. I wonder, because that is the reading of the legislation, what your reaction is to that.

1520

**Mr Richards:** For instance, a large store in a mall, a department store or a grocery store, is involved in a labour dispute and this organization has a number of employees. If those employees put picket lines up at each street entrance to the mall, I'm sure a number of people will not enter that mall whatsoever. That means they won't be able to shop at any of the stores in that mall. If the picketing is set up right in front of that particular store, people will be free to shop in all the other stores in that mall and they just won't enter that particular place of business. I think that will benefit the other owners in that mall.

**Mr Offer:** Unfortunately, the legislation doesn't say that. I can give you an example. For instance, a department store licenses out certain areas within it—a cafeteria, a photo mart, a travel agency. This bill would allow picketing and organizing within the department store, in front of whatever part of the department store is going to be picketed or organized. I don't know that this is of any benefit to

those who are involved in the area that isn't part of the picketing or organizing.

My second question has to do with this part of your presentation: "OLRA reform will ensure that workers can freely exercise the right to join and be represented by a union without intimidation and threats from the employer." I think I know where you're coming from in the legislation when you say that. From listening to others who have come before the committee, I have some concerns as to whether that is actually made out in the legislation. I think it could be made out if workers were given the opportunity to freely vote in a secret way, fully informed and free from coercion from either side. I guess my question is, would you support that: secret ballot, free from coercion, fully informed?

**The Chair:** Give him time to answer.

**Mr Richards:** Back to the first point you commented on: entrances and exits to malls. My understanding is that picketing could be at the exit and the entrance to the particular store. I see some heads shaking, so I'll look further into it, and hope that's proper information you're giving me.

Your question about the vote: The concern I have there is that the employer is the person who hires, fires and disciplines. The union does not do that. The union does not intimidate people to sign a card. It's there: If you don't sign it, fine; the union can't fire you from your job. I've never seen any place yet where a union was firing employees because they tried to organize, but I have heard of several cases where companies have disciplined, dismissed and caused a lot of hardship because employees tried to organize.

**Mr Stockwell:** I can't believe you're that naïve to think there couldn't be some intimidation.

**Mr Richards:** Is that a question or is that a comment?

**Mr Stockwell:** That's a question.

**The Chair:** You may respond if you wish.

**Mr Richards:** Like I said before, the union cannot discipline the worker.

**Mr Stockwell:** Is this your brief? Did you write this?

**Mr Richards:** I certainly did.

**Mr Stockwell:** I go down to the fifth paragraph: "To fight the OLRA reform and discredit the government, they've formed lobby groups like the All Business Coalition, the More Jobs Coalition, Project Economic Growth and the National Citizens' Coalition. Led by Liberals and Conservatives, they've hired high-priced consultants and American advertising agencies." Gee, where did you discover that?

**Mr Richards:** I have a lot of information.

**Mr Stockwell:** Clandestine, I would think.

**Mr Richards:** I have the names of the people who belong to these coalitions, but I decided not to include them in the brief.

**Mr Stockwell:** Sort of clandestine cabals being around, and they've offered you this secret information

that the Liberals and Conservatives organized these and in fact led this charge by the private sector.

**Mr Richards:** It's quite simple. Who supports whom here? Big business has always been supported by these parties, the Liberals and Conservatives, and it's never going to change.

**Mr Stockwell:** I see. So, naturally, through that you've made the quantum leap to assume that all these association coalitions are endorsed and supported, led, by Liberals and Conservatives and that they've used high-priced consultants and American advertising agencies. It couldn't possibly be that the people in the business community don't like the legislation. It's a clandestine plot.

**Mr Richards:** Do you dispute the statements I've made?

**Mr Stockwell:** Vehemently, sir.

Next we move down to the third paragraph from the end. This is another one for the record books: "The big business elite and the multinational corporations will stop at nothing to regain control of Ontario for themselves." This clandestine plot thickens. "The small business owners in this community and across the province should work with organized labour to protect the interests of the people of the province instead of taking direction from these anti-union coalitions."

Did it cross your mind at any point upon writing this that maybe, just maybe, small business people have their own minds and think this isn't a very good piece of legislation, rather than taking their direction from the big multinational capitalist pig dogs?

**Mr Richards:** Those are your words, not mine.

**Mr Stockwell:** The question stands. Did you think maybe the small business community might think this isn't very good legislation?

**Mr Richards:** There are a lot of small business people who, once they understand the legislation, realize that it's not going to affect them and it's not going to hurt them.

**Mr Stockwell:** That wasn't the question. There's a lot of business out there, small, medium and large, that doesn't like it. You're suggesting that their thinking is slanted that way because of multinational corporations who "will stop at nothing to regain control of Ontario for themselves." Don't you think there are some businesses out there who honestly believe this isn't good legislation and who have the right to voice that without being charged by you as being lapdogs for multinationals?

**Mr Richards:** A lot of businesses are following direction. Once they find out exactly what's in this bill, they realize it's not affecting them and they change.

**Mr Martin:** My comment and question are more for Elaine. You lay out for us a classic example, I think, of why we need scab legislation in this province, why we need protection from replacement of workers. Particularly where you have a chain operation, which boils down to a franchise, most of the economic opportunity afforded a community in which such a chain exists is usually through the employers; you collect a wage and spend it in the stores and shops of the community you live in, own



houses, pay taxes and all that kind of thing. To keep you on the picket line for as long as you have been is not only harmful to you but harmful in many significant ways to the community in which you and I both live.

It's interesting as well to note that usually as a strike goes on blame is laid at the feet of the union as opposed to the business enterprise. In light of the comments made by the previous presenters from the Sault chamber of commerce, where we were told to let business be business, which I guess assumes that business will always make the right decisions and do the proper thing, and that, by inference, unions won't, that they'll always be trying to grab a little more and be somehow destructive to the business where they work; in light of that and in light of the desperate situation that Sault Ste Marie finds itself in re the impact of cross-border shopping on our economy, would you read into the record so that all of us can hear the statement made by Linda Richardson on August 21, 1992, so that we and the chamber can all understand how committed this company actually is to Sault Ste Marie, Canada?

**Ms Della-Mattia:** Sure, Mr Martin. This was a press release that we released to the rest of the media on August 21 after we found out that there were a couple of things going on with the scabs that we were not too pleased about.

1530

The press release is titled "Hundreds of Local Dollars Leave the Sault."

"The Southam-owned Sault Star has exported its business to the Michigan Sault, treating its out-of-town 'volunteer' sales staff and managers to an American booze cruise.

"Thursday evening, the scabs and some local managers chartered a \$1,600 (US) dinner cruise from a Sault, Michigan, tour boat company. During this self-congratulatory evening they dined on stuffed chicken breast and sirloin beef.

"Earlier that day the Sault Star's operations manager, Ray Dunn, was spotted at the Soo Co-op IGA in Michigan with a Southam security guard, filling a shopping cart with liquor and beer for the night.

"Considering that the Sault Star's bread and butter is business on the Canadian side of the river, this doesn't show a lot of respect for the community," said Linda Richardson, president of Local 746 of the Communications Workers of America.

"Unionized workers at the newspaper have been locked out for nine weeks. Mediated talks are scheduled to resume Monday.

"The expensive cruise—which pumped hundreds into the Michigan Sault economy—gives Canadian Sault retailers an indication of where the Sault Star's loyalties lie.

"Scabs who came to Sault Ste Marie to replace local sales staff obviously are not here to look after the interests of the paper's customers."

We've seen them across the river in Sault, Michigan several times, dining there, attending bars there, going to the casino there. I've never seen them in a Canadian bar or a Canadian restaurant, except the hotel they are staying at, the Holiday Inn, while they've been here the nine weeks.

And they brag about going across and spending their money there—they brag about it.

**The Chair:** Thank you.

Interjection.

**The Chair:** No, we've got to move on. I suppose whether you'll ever see them in an Ontario casino depends upon what this government does about that.

**Ms Della-Mattia:** That's right.

**The Chair:** I want to thank the Sault Ste Marie and District Labour Council for being here this afternoon: Bob Richards as president, speaking on behalf of the labour council membership, and Elaine Della-Mattia for her eloquent comments and insights. We're grateful to both of you for an important contribution to this process.

#### SUDBURY AND DISTRICT CHAMBER OF COMMERCE

**The Chair:** The next participant is the Sudbury and District Chamber of Commerce. Those people will please come forward, have a seat and tell us their names. The written material is being distributed. Please commence with your submissions so we have time for exchange.

**Mr Alan Arkilander:** Thank you, Mr Kormos. I think the last time we might have discussed things was during the no-fault insurance debacle.

**The Chair:** I was right then, still am, but that may well be the subject matter of another committee hearing, unless the government has enough wisdom to abandon that foolish legislation. Go ahead, sir.

**Mr Arkilander:** My name is Alan Arkilander. I'm president of the Sudbury and District Chamber of Commerce. At this time we welcome the opportunity to participate in this process where the committee is going across the province, hopefully to have a second look at the proposed amendments. Broad-based consultation is important to the process of developing an effective approach to labour reform in the province of Ontario. It's very important that this committee and the Ontario government not only hear but listen to what is being addressed by all parties. The idea is to listen and to absorb what is being addressed.

The Sudbury and District Chamber of Commerce is now in its 97th year of leading and serving the Sudbury area business community. It represents over 900 businesses throughout the district of Sudbury, or, if you wish, employers. Our membership encompasses not only the multinational corporation but also the small entrepreneur, but primarily we represent small business in this area. In excess of 76% of our membership is made up of firms with 10 and fewer employees.

It's important to stress from the beginning that the Sudbury and District Chamber of Commerce strongly supports the principles of the collective bargaining process. Business, at least in this area, is not anti-union; it is not anti-worker. It can't afford to be, when these are the very partners that business depends upon to be productive, competitive and successful.

Business is pro-economic growth, pro-competitive, and we're in favour of a healthy and viable economy for Ontario. But in order for business to be successful, to

be productive and competitive and to continue to be able to provide jobs for its employees, business must feel confident that the game is being played on a level playing field and that the scales are not being tipped to its disadvantage.

It goes without saying that the province is now in the midst of a very severe recession, job losses are at an all-time high, corporate profits and investor confidence are at all-time lows. The Premier himself, I understand, earlier this year stated publicly that we will have a long road ahead of us before our economic horizon brightens. At this time, suggesting major revisions to the Ontario Labour Relations Act—that is, during a time of economic crisis—brings to mind a vision of someone rearranging the deck chairs on the Titanic just before it sank. Rather, we'd suggest that when the water is coming into the ship at this time faster than you can bail, the most important thing to do is to fix the hole.

Having said this, it can only stand to reason that businesses' first priority is, and must continue to be, to concentrate on staying in business. Make no mistake: Jobs and investment are at stake at this time. Comprehensive economic impact surveys conducted by the business community suggest that if these labour reforms were implemented in their present form they would cost over half a million jobs and more than \$8 billion in investment would be lost.

We've already seen some hesitancy in investing in Ontario during the Premier's trip to Japan this spring. I think the suggestion was that there are very few lawyers over there and a lot of engineers, and perhaps that's what we should do in Ontario, but being a lawyer, I'm not totally in favour of that.

This government's proposed labour law changes take us in the opposite direction. To force the business community to redirect its focus towards costly, time-consuming and disruptive programs and policies will certainly help to destroy the very partner the government is relying on to stimulate the province's economic recovery. It is the chamber's position that introducing such sweeping, one-sided proposals at this time is economic madness.

Locally, we have had reactions from some of our companies, one in particular being a larger, successful, independent company employing approximately 30 workers. The company's president has indicated that he's withholding in excess of \$5 million in investment at this time, and should this legislation be enacted in its present form, his feeling is that the company will be forced to close its doors.

This government has not listened to the various studies the business community has conducted to explore the impact of this legislation on the provincial economy. More important, I believe the government has refused to conduct a study of its own or, if it has, it has not released it. Given the enormous stakes, this is inexcusable and, we feel, totally irresponsible.

Government supporters of this proposed legislation used the province of Quebec as the perfect example of where this type of legislation exists and works. On the contrary, statistics indicate that in the period between 1970 and 1977 there were 60 more strikes in Ontario than in Quebec. Once the legislation was passed in Quebec, after

1978 until the present or until 1991, there have been 652 more strikes in Quebec than in Ontario.

We are not suggesting that change to Ontario's labour legislation is not needed, but the current proposals are not the answer. What business and government need to do is consult with each other, to go through a process of working together to see what the solution is. This means breaking through barriers of hostility and mutual distrust between government, labour and business, and having all the stakeholders listen to and understand the needs of all parties in an effort to reach common ground. At this time, significantly altering the balance of labour relations in the province is counterproductive to fostering economic co-operation between government, labour and business, and that also is dangerous to the economic health of this province.

Now is not the time to create tension, disharmony and acrimony between economic partners. Now is the time to put the interests of Ontario first.

**The Acting Chair (Mr Brad Ward):** Thank you for your presentation. There is some time for questions. We'll go to the PCs first, Mr Stockwell and Mr Villeneuve. No questions? Then I'll turn it over to Ms Murdock.

**Ms Murdock:** Congratulations. I know it's your new position. At the consultations, Jeanne Warwick was here last January and February, and the minister and I sat and listened to the chamber's presentation at that time, so I know you stepped into a job where right off the bat you had to make this presentation. So it's good to see you and I'm sure we'll meet again.

**Mr Arkilander:** Actually, I stepped in on the synthetic plant proposal first, but this is about the fourth attempt we've made.

**Ms Murdock:** Something that had to come to Sudbury, right?

Just on that point, after many of the points that were raised by the chamber in February when you were here—I'll say "you," meaning the chamber—in arriving at these amendments and the 32 amendments that exist in Bill 40, we changed 22 different areas, 10 of which came predominantly from business and were in significant areas.

I can specifically relate to the section that was a real bone of contention during the consultations in terms of supervisors being allowed to organize, which was in a discussion paper. Their exclusion has been maintained in the amendments. That's just one example of the changes that were made, many at the behest of business.

I guess I'm having some problems in understanding why, during these hearings, business is saying that this government in particular has not listened to anything business has been saying. No government at all with any kind of sense—I believe that I personally have sense and I know that my colleagues do—would put in any legislation with the intent of running investment out of this province. I don't understand, basically, where you're coming from, so maybe you can explain.

**Mr Arkilander:** One of the major concerns is the question of replacement workers, and I'm sympathetic to the people from Sault Ste Marie who have a problem in



dealing with that. But for instance, there was a strike at the Sudbury Star a few years ago. During that time they lost a good portion of their readership and it's taken them a long time to get that readership back, and certainly that was the effect of the strike at that time and certainly that was probably one of the factors that helped them attend at the bargaining table with their employees and reach a solution that still holds today.

I'm not certain as to the particular situation in Sault Ste Marie, but certainly any strike doesn't help that business nor the employees. So one of the big issues that is still not dealt with is the question of replacement workers; that is, allowing a company where the employees are on strike to hire other people to take their place, hopefully only for an interim, but at least allowing the company to continue in business.

1540

In Quebec this system has been in place since 1978, I believe, and generally the perception is that when they do have a strike there, and they usually have some dandies, the businesses at time close up and they go away for a while and then when things settle down, they'll come back and open their doors again, so you have this sort of a tick-tack-toe game being played across the border from Quebec to the States.

I was at a meeting with the Minister of Labour, I remember he mentioned that, "Well, you know, this has been the way it is in Quebec for a long time," and somebody in the audience answered, "Well, who wants to live in Quebec?" The system we have in Ontario might be cumbersome at times but it does work in the long run, and just at this time it's important for the perception of what is happening to be dealt with.

I was out west in Calgary and the papers there were gleeful about the changes that are coming to the labour law in Ontario because it's not going to be like that out there. So the indications I had from the papers I read out there were that business is open in Alberta but it's closed in Ontario. The perception is very important and perhaps maybe the government isn't explaining how the changes will benefit business. In terms of replacement workers, certainly in Ontario it doesn't benefit.

**Ms Murdock:** You see, again, it's difficult for me because Stats Canada has put out its stats for last year and out of \$45 billion invested in Canada, Ontario is still getting 40%, over 40% of the investment dollars, \$24 billion to be exact. I'm sitting here saying, "Yes, investment is down everywhere in the world," that's pretty evident when you look at Britain's headlines and everywhere else, and yet we are still getting the major proportion of investment out of the entire country.

In terms of the perception that is out there beyond the Ontario borders, much of that certainly has not been fostered by the government of the day but rather has been more of a self-fulfilling prophecy by the business community in terms of full ads taken out in the New York Times etc. So I have some difficulty in understanding why a company like Crayola, which operates a business in Illinois and in Brantford, Ontario, decided to choose Brantford to

put out four million packages of crayons this year instead of its Illinois plant if Ontario is indeed not the place to invest. So I have difficulty understanding exactly on what premise you're basing your argument.

**The Acting Chair:** Not to correct Ms Murdock, but just to clarify, it was KeepRite that made the decision to close up a plant in Red Bud, Illinois, and expand production in Brantford.

**Ms Murdock:** Of which Crayola is part.

**The Acting Chair:** Crayola was in Peterborough. That is where they decided to expand production.

**Ms Murdock:** In any case, it doesn't take away from the question I've asked.

**Mr Arkilander:** I'm not certain what the question is you asked. All I know is that the issue of replacement workers is one that apparently people in the business community don't appreciate. They feel that this is going to in effect force them to close their doors when there's a strike, that that's what will happen. I gather the rationalization is that this will help cure violence on the picket lines. Well, you and I both went to law school and probably took labour law—

**Ms Murdock:** I certainly did.

**Mr Arkilander:** —all thinking we'd become labour lawyers. I remember it's clear that picketing is to be for information purposes only. Unfortunately, people do get carried away and they do shoot at helicopters and things like that, but you can't control those odd bad apples and here the legislation is being changed to control those few bad apples.

**Ms Murdock:** We in Sudbury have actually been pretty good over the years. I mean, I was here for the 1958 strike, the 1978 strike. I was on the receiving end of it in terms of it ending just before Christmas and not having Christmas presents that year for my family, being in the striking workers' section. In all honesty, Inco and Falconbridge both have not used replacement workers, it hasn't been their tradition, and over the years, as a consequence of that, though they still have their differences, no doubt, They have learned how to work very well together and I think the city of Sudbury is benefiting from that. It does show that it can work when people communicate.

If you look at the stats, and I can provide them for you in terms of the Quebec question, it does have more but of a shorter duration. Ontario's also are of shorter duration. It does make people go back and talk, rather than having you out there picketing longer. It does make you communicate and negotiate, which is the whole point of the collective bargaining process.

**Mr Arkilander:** May I just point out that we're not against the collective bargaining process.

**Ms Murdock:** I know, but when you're allowed to replace workers, it lengthens strikes, and it's been shown that it does. Violence aside, it lengthens the whole process and negotiating basically stops when workers are on the picket line, and that's what we're trying to prevent or at least alleviate—of the 4% it affects, because the Labour

Relations Act, as you know, only covers 30% of the workplaces in the province.

**The Acting Chair:** Mr Hayes, I believe you have a question, briefly.

**Mr Arkilander:** I just wanted to reply briefly. You made a very important point that Inco and Falconbridge and the workers have learned to live under the present legislation and work together. So why change it? It's working here.

**Ms Murdock:** There are a lot of workers who don't have access to it, that's why.

**Mr Hayes:** Mr Arkilander, several presentations made from other chambers of commerce talked about workers having the choice, for example, to stay in the workplace or to go back into the workplace when there was a legal strike, having that choice to do that. If you agree with that, would you then agree that if after a ratification—let's say the ratification vote to return to work was fairly close, say, 55% to 45%. Do you feel that those workers who did not want to go back, weren't happy with their gains, should have the right to stay out on strike?

**Mr Arkilander:** What you're talking about is that the odd time some of the workers will dispute what their union does. Is this what you're getting at? That they'll go against the wishes of their bargaining committee and the majority of the workers and work?

**Mr Hayes:** There is a legal strike and it's been voted to go out on strike, okay? We've heard presentations saying that the workers who don't want to go on strike should have the right, even though they're the minority in numbers, to cross the picket line or stay on the job or not to go on strike. If that were reversed, that 55% voted in favour of going back and 45% said no, do you think those 45% should have their choice not to go back on the job?

**Mr Arkilander:** I'm not certain of the positions of the other chambers, and I haven't even discussed that with my executive committee, but personally, we live in a democracy and 51% rules.

**Mr Hayes:** By the way, since Quebec put the legislation in in 1978, there have been 30% fewer hours lost due to strikes in that province.

1550

**Mr Brown:** Good to see you. I guess all of us in Ontario are very worried about the economy. I mean, that's not a news flash. We've lost somewhere between 200,000 and 300,000 jobs in the last 18 months. The unemployment rate is at 11%; the actual unemployment rate, if you take people who have just stopped looking, is probably closer to 13% or maybe even 14%. Things are pretty difficult out there for the people the members of this committee are trying to represent. That's not news, but it does set the context within which we are considering this legislation.

What bothers me a little is not that labour reform did not need to happen; I think everything can always be made better, and I think you would agree with that. What I'm disturbed about is that there are 32 substantive measures in this bill, 32 changes of some importance, and if you look at that, the score is 32 for organized labour, employers

zero. This is the first piece of labour legislation that could ever have that said about it, that all the changes are in one direction.

It would appear to an objective observer that there is a balance in this province, if you look at our average wage rates, our standard of living etc, all the signposts an economist might look at. I wonder if you see in totality a score of 32 to zero, looking at it as something any objective observer might think is balanced. Will it make labour relations in this province better for the people I represent, the people out there who are trying to earn a living?

**Mr Arkilander:** With the businesses that are members and the people we talk to, certainly the perception is that this will seriously imbalance the present state of affairs in Ontario. If it does, then it will be difficult to encourage businesses to set up here or to expand. I guess the idea is that they'll learn to live with it, but this will be a very difficult process, with time needed to learn to live with this. We're just hopeful that the government will take another look at it through this committee and realize there are some problems with it that are not being dealt with even through the 22 other amendments to the amendments.

**Mr Brown:** During these economic times, the Ministry of Labour's statistics are telling us that 70% of the jobs lost have been in the union sector, and projections for the next few months—well, they're not projections: The Ministry of Labour knows that a substantial number of the jobs lost in the near future, in the next couple of months, will also be in the union sector. Those are good jobs; nobody wants those jobs lost. I'm just wondering if, coming from a community that has a strong—I'm not quite sure how to say it, but has a strong—

**Mr Arkilander:** Image of labour?

**Mr Brown:** —image of labour relations, a labour town: If there is one, it's got to be Sudbury. I just wonder if you see, in Sudbury, more people working or fewer people working.

**Mr Arkilander:** If I could predict that, I don't think I'd be a lawyer; I'd be something else. I was reading about how well some people can do if they know all the statistics and background.

In the Sudbury and District Chamber of Commerce most of our members employ under 10 people. A lot of them are retailers and what not, and unions are not involved in their business, and they seem to feel this will make it easier for their employees to get together to organize, to form a union. Generally, these small business people are very independent and don't like to have somebody else there to tell them what they should do in their business. The fear is that this is what is going to happen.

The big companies here are resource-based and will continue to survive and adapt to the situation. As Ms Murdock has indicated, right now the union and, in this case, the multinational corporation seem to realize that labour strife is not conducive to long-term business and profit-making. But with the small businesses, the fear is that this will make life more difficult for them to continue with their businesses.



**Mr Brown:** The question isn't really whether it's easier to organize. It should be, do the people in the workplace have an opportunity to organize free of coercion, intimidation etc? Obviously, we all have to be concerned about that. We want to make sure that anybody who wishes to associate has the ability to do that. Therefore, I take it your membership would be in favour of secret ballots for people wishing to organize so that they may have the opportunity to express, free from coercion, in the privacy of a secret ballot, the ability to organize.

**Mr Arkilander:** The chamber certainly doesn't object to a secret ballot in making these decisions.

**Mr Offer:** Thank you for your presentation. I certainly did think it talked to a very important area.

As we have gone through our hearings, there are those who come before the committee and say, "This legislation, if passed—when passed—is going to cost jobs," and they may refer to the Ernst and Young study or some other comment. We hear from the government side that it's not going to cost any jobs. I think it's clear that we have some very strong concerns that this is going to have an effect on jobs, it's going to have an effect on investment and it's going to have an effect on job creation.

The question I have for you is, what would you suggest to this committee in the area of that type of investigation? What is it that we should be asking the government members and the ministry to look into to decide this type of question?

**Mr Arkilander:** As I understand the process, business leaders were consulted at the start of the whole thing and then gradually it reached the point where they realized that no matter what they said, what is going to happen is going to happen. Certainly this goes against the grain when here in Sudbury we've been trying to encourage business, labour and government to work together to make Sudbury a better community to live in, a better business environment. From what we've been told, the people they consulted with weren't really consulted. They were just told that this is the way it's going to be.

As to how to make things better, certainly in the type of business I am in, I'm not involved with labour disputes that often because we're not unionized. We've got 28 staff. I presume we may be facing something like that also, and then we'll have to deal with that if it occurs. It's just that when studies are done to show that billions of dollars in investment may be lost because of this change in legislation, I think it's going to be a contributing factor. We have to deal with North American free trade now. We're trying to deal with free trade with the United States of America—at least their view of what free trade is—and this is going to be a factor that I'm sure will affect the economy.

**The Chair:** Thank you. Mr Villeneuve, briefly, please.

**Mr Villeneuve:** I will be short, Mr Chair. Thanks for your presentation. I notice that over three quarters of the people who belong to your chamber employ 10 or fewer people.

**Mr Arkilander:** Yes.

1600

**Mr Villeneuve:** The person who was just previously in the chair that you now occupy, from the Sault Ste Marie and District Labour Council, said it was his opinion that it would not affect small business. This seems to be quite contrary to where you're coming from. With more than three quarters of your membership being 10 or fewer employees, what is their major concern, in your opinion, with Bill 40?

**Mr Arkilander:** The major concern is that their employees will organize and it'll be easier for them to organize and become a union. It's become more attractive for the union to turn its direction away from the larger companies to smaller companies to look for new members. As indicated, due to the recession and other factors a number of the larger corporations have lost workers. They've pared down. As a result, the unions have lost members. Someone has to pay the freight. I guess they're going to expand their horizon. That's the concern of small business.

**Mr Villeneuve:** So that's basically in direct opposition to what we heard from the Sault Ste Marie and District Labour Council, that indeed when small employers had Bill 40 explained they no longer had concerns. It's your experience that there is serious concern.

**Mr Arkilander:** There are still serious concerns, yes.

**The Chair:** Thank you, Mr Arkilander, for being here on behalf of the Sudbury and District Chamber of Commerce. You've played an important role in this process and we're grateful to you and the chamber for participating. It's good to see you again.

**Mr Arkilander:** We've missed you on Channel 7 lately.

**The Chair:** You never can tell what the future will hold in store. Let's keep our fingers crossed.

#### SUDBURY AND DISTRICT LABOUR COUNCIL

**The Chair:** The next participant is the Sudbury and District Labour Council. Written submissions are being distributed. Members of the committee are going to read those submissions. The participants can either read them in total or highlight them, as they wish. But please try to leave time for questions and exchanges, which you can see are very valuable. I remind other people who have come that there's coffee and some sandwiches at the side. Please make yourselves at home. They're here to make you feel comfortable. Go ahead, gentlemen.

**Mr Barry Tooley:** I thank you for the opportunity to appear before this committee. I can assure all members of the committee that the businesses in this community do quite well from the unionized workers in this particular town.

We have chosen to deal in a general way with the proposed changes and will leave specific examples of problems to others who have actual case records of grievances. Our affiliates often seek the support of the labour council in attempting to solve problems created by the present Labour Relations Act, which is outdated and must be amended to deal with the realities of our changing society.

The purpose clause: Our council supports the inclusion of the purpose clause as it clarifies for adjudicators the basis of the labour act's intentions. We would like to see it strengthened so that the trade union movement is promoted as a vital part of our community and is a vital component in building a fairer society. We support the government's intentions but believe nice words are often ignored by unfair employers and therefore feel the need for improvement.

The right to organize: The importance of this section cannot be over-emphasized. We have seen our affiliates spend small fortunes in legal fees and other costs in their efforts to represent workers. This money does not come from profits on investments, but from union dues of members who know the benefits of association.

The right to organize domestics, security guards, professionals and agricultural workers is long overdue. We believe all workers have a right to be organized. Employers all have a right to belong to an organization that they support, and so should workers. We know from experience that all the wording in the act now means very little to an employer who wants to prevent his workers from belonging to or forming a union. We want to stress that when we talk of an anti-union employer we are not including all employers, only those who are unfair to their employees.

We have concerns on how some of these new workers can be organized when in many cases only one employee is in the workplace. You can't say on the one hand that you can join a union and then deny that right by making use of another section of the act. Subsection 6(1) of the act must be amended to facilitate the right to be represented by a union or it will mean nothing to many workers. Many of our organizations have given voluntary recognition to the union where only one employee is working and negotiated and signed an agreement, so it is workable.

Organizing and certification: This amendment, section 92.2, allows a union to file a complaint for unfair labour practice and have hearings commence within 15 days. The point we want to stress here is that in an organizing campaign, anti-union employers don't care if down the road they have to take an employee back. By firing employees, the employer is threatening the rest of the workers not to join the union or they will be dealt a similar fate. It simply is not good enough for the employer to reinstate the worker.

Another problem is the tremendous legal fees that have to be paid by the union out of union dues that should not have been necessary in the first place. We know many of our affiliates cannot afford the legal costs. The employer should have to get leave of the board before terminating a worker whenever workers are deciding to join a union.

We support access to third-party property and ask that the employer non-production areas be accessible to union organizers.

We are also in agreement with the deletion of the \$1 fee when proving membership, as this has often been used by anti-union employers to delay labour board certification proceedings.

The support required for union certification should be a simple majority. It is the way our governments and others

are elected and it should be the same for certification. Anti-union employers often put out threats that they will close the company before allowing the workers to be represented by a union. This kind of action prevents workers from expressing their intentions and instills a fear over the workplace. The act being amended to 40% for a vote to be taken is proof that in many cases workers are intimidated by the anti-union employer.

We want the government to make a recommendation that will provide the union with the same list the employer provides to the board on certification applications. It remains a cloak-and-dagger type of operation when only certain parties have the information on the numbers of employees for certification.

We completely agree with the elimination of petitions. Anti-union employers have used this section of the act again and again to try and stop the workers from choosing a union, and again the legal costs have been staggering. We support the elimination of petitions and revocation, as we believe they are always sponsored by the anti-union employer to defeat the employees from having a union to represent them.

We certainly support the change dealing with unfair labour practice. It proves the need is there to stop the anti-union employer from threatening or using scare tactics, thereby preventing the true wishes of the employees from being ascertained. Workers have a right to decide for themselves if they want a union to represent their interests, and we know that a large number of anti-union employers will go to great lengths to keep the workers from forming a union.

Structure and configuration of bargaining units: We support the amendments to subsections 6(2.1) and 6(2.2) dealing with a single unit for full- and part-time workers. This change is necessary because of the massive numbers of part-time workers who need representation. The reality is that for many workers, all they can find is part-time employment as employers vigorously pursue cost-cutting measures.

We generally support the right of consolidation of bargaining units, so long as it is done in consultation and with the approval of the affected trade union. Where the board is directed not to combine bargaining units because of geographic locations, it needs further dialogue so that everyone is clear and large amounts of legal costs and time will be unnecessary for all parties.

First-agreement arbitration: We can see merit in establishing a first agreement through the arbitration process, especially if no progress on a new agreement is being made. It would be far better if this could be accomplished in a non-adversarial manner so as to give each party a chance to work problems out. In the industrial, commercial and institutional sectors of the construction industry, the Ontario Labour Relations Act makes it mandatory for a newly certified employer to immediately be bound by the current provincial agreement. This accomplishes in that industry a first agreement without the need for a strike or lockout. We respectfully suggest that something along this sort of arrangement will help build a better understanding of labour relations between the parties.



1610

Improving collective bargaining and reducing conflict: We oppose the use of scab labour under any conditions. The use of scab labour during any labour dispute leaves scars in the industry that are never forgotten. Workers have been killed in this province and elsewhere because employers and governments have allowed the use of scab labour. It would be far better to have a means of resolving a dispute than to resort to the use of scab labour.

The procedures for life-threatening situations and protection of property can be agreed upon prior to a strike-lockout situation by the respective parties. Unions are responsible organizations and have no desire to cause harm to individuals or damage to property.

Anti-union employers, on the other hand, often bring in scabs to provoke union members and have even hired goons to infiltrate union ranks to foster violence. Employers also have been known to favour one union over another, settling the agreement with one group of employees and then forcing the other employees out on to the street. This kind of situation does not foster labour relations and breeds resentment.

We support the protocol of returning to work after a labour dispute which is contained in section 75. We agree that the employer must continue benefits for employees, provided the union tenders payment. However, where the union does not have the finances to pay, employees should be allowed to keep up their benefits directly.

Our council would like government to address the concerns our members have concerning a lockout or strike and pickets that are set up at the location of the employees' work site. At the very least, it should be in the act that all workers have the right not to cross a legal picket line or to handle struck work. This would alleviate the problem when one group of workers is forced to cross a picket line under the threat of huge fines and possibly a jail sentence.

The grievance arbitration process: We agree with the procedure that will offer to streamline the process of having problems resolved expeditiously. Section 124 of the act already gives some workers a prompt procedure for the settlement of grievances. In general, we support the jurisdiction and procedure amendments. They offer a more comprehensive mediation process than is presently in the act.

Preservation of bargaining rights: We agree with the successor rights on the sale of a business. However, we also believe that if a business relocates, the employer must offer the employees employment at the new location, and the agreement and all other conditions of employment must be adhered to.

We support the recommendations on the "federal to provincial sale" of a business covered by the Canada Labour Code giving successor rights. The contracting in and contract tendering in the contract service sector, in extending successor rights to certain workers, is definitely an improvement. Too often when workers are organized in these sectors they are cast adrift as soon as their employer's contract is put out to tender again. We think the same applies to those workers who are being excluded. An employer who contracts out work, and then those employ-

ees are organized or subsequently organized, should not be able to get around unionization simply by retendering to a different, non-union contract services employer.

Adjustment and change in the workplace: The government's intentions in this area are admirable, but as we have stated before, the anti-union employers will use the fact that it is not a requirement but voluntary. The massive job losses in Ontario show that we require stronger language and legislation to assist those workers who are displaced through no fault of their own. We support the position of the Ontario Federation of Labour and ask that the government put some teeth into this section of the act.

In conclusion, our government has opened the Ontario Labour Relations Act and made significant amendments to try to help workers. They have been the subject of ridicule by opposition groups almost to the point of hysteria for attempting to make changes that will improve labour relations in our province. In another province, the Liberal government passed a law that all new construction work must be union, which was recommended by a committee that the Prime Minister served on. The point here is that we see much of the hostility by anti-union employers as just NDP-bashing, and it is totally unproductive in our search for solutions to help working people.

Our council believes that the intent of the legislation is in the best interests of Ontario and calls on all fairminded workers and employers to support these changes. We respectfully ask that the government review the recommendations we have made to further improve the act.

We support fully the Ontario Federation of Labour position on broader-based bargaining as a method to encourage and protect workers in the small workplace and service sectors and request that it be included in the study for other workers. Although it is not part of your mandate, we also want to advise the committee that we support in principle the further amendments to the act outlined in Bill 80.

On behalf of the Sudbury and District Labour Council, we thank the resources development committee and will attempt to answer any questions you may want to ask. Before I open for questions, I'd like to introduce my colleague, who is Barry Fraser, a staff rep from the CLC.

**The Chair:** Thank you, sir. Ms Murdock, four minutes please.

**Ms Murdock:** Thank you very much for coming. I want to introduce a subject that's been talked about mostly by the opposition parties, the secret ballot vote. I guess under the existing legislation, subsection 7(2) right now requires what they call a representation vote, but it's basically a secret ballot vote, for anything under 55% of cards signed and over 45% presently.

What we're suggesting in the amendments is that that 45% be lowered to 40% so that there would be an automatic vote required if the cards you signed up fell between 40% and 55%. I'm asking your opinion on how you feel about the reduction from 45% to 40%, but also too how you think that would satisfy the business community's request to have a secret ballot vote in terms of unionization.

**Mr Tooley:** We're not in favour of a secret ballot vote simply because when a strike vote is called and the workers

agree to take that position, the union is the bargaining agent. We think it's an insult to workers everywhere that they be required to have a revote on any issue. The unions are quite capable of negotiating and bargaining for those employees. We're not in favour of that.

Interjection.

**Mr Tooley:** I'm sorry; I misunderstood the question.

**Ms Murdock:** You're talking certification and I'm talking secret ballot votes, but that's okay. Either one of you can answer.

**Mr Barry Fraser:** I think your question is, do we agree with the reduction? I think we covered that in our brief. We agree that the percentage be lowered, because in order to get a vote the facts are that workers are intimidated in almost every organizing effort that's ever been conducted anywhere in this province. In answer to your question, if a union can show that it has signed cards of around 40%, we think it's entitled to a vote. In fact even less; in the construction industry it's 35%.

**Ms Murdock:** I gather that in your organizing efforts you've had secret ballot votes for under 55% of the cards signed.

**Mr Fraser:** Yes.

**Ms Murdock:** Have they been counted on the same day they were voted upon? What has your experience been on that?

**Mr Fraser:** I'm going back a few years, but my recollection is that when they set the terminal date there was too much time for influence by the employer on who voted and so on. There have been examples, certainly in the skilled trades area, where people were allowed to be on the ballot who were in fact not even duly registered tradespeople in the industry, and when we complained to the board about that it just simply made the argument that it was another jurisdiction of government. I think your government is covering that in your changes by making sure that all legislative things are taken into consideration with decisions.

1620

**Ms Murdock:** On page 6 of your presentation, Barry, under first-agreement arbitration, just for clarification purposes, are you suggesting province-wide bargaining for all first contracts in all industries across all sectors?

**Mr Fraser:** No. I just cited that as one example where the previous Conservative government, I believe in 1977-78, recognized that when a small employer was organized in the construction industry, something had to be done to bring him into line with the provincial agreement, or it could have been a regional agreement, rather than having a hodgepodge of agreements in the industry. I'm saying in that area, where you have other small employers who only have maybe one employee and so on and so forth, the only way they could probably get fair representation is by saying, "In this industry, this is going to be the standard."

**Ms Murdock:** Like domestics.

**Mr Fraser:** Yes, like domestics and so on.

**Mr Offer:** I have a couple of questions that revolve around your experience in organizing and that aspect of

your submission. In your opinion, is there ever a situation where, in an organizing drive, an employer can express his or her opinion without its being viewed as intimidating or coercive on the part of the employee?

**Mr Fraser:** The answer to that is no.

**Mr Offer:** Thank you. Is there ever, in your experience as an organizer, a situation where not just the employer but maybe the organizers might be thought of as intimidating or coercive to the employees that they wish to organize?

**Mr Fraser:** The answer to that is no.

**Mr Offer:** Thank you. I have a concern, because the Labour Relations Act now does permit the employer to express opinions in an organizing drive. I have a concern that you, who have made such a very important submission and have a great deal of experience, feel there is never an occasion when an employer can express an opinion in an organizing drive, which is now allowed under the Labour Relations Act, without it being viewed as coercive or intimidating.

Second, I have a concern, and I just share it with you, that the protections that are afforded to the workers—and I'm thinking now from the aspect of the workers, the men and women—there is no real protection for them in an organizing drive if there is some activity being taken on the part of the union that might be viewed as coercive or intimidating.

Do you think the legislation should be changed, first, to deny an employer any right to express an opinion in an organizing drive, and second, to amend the legislation so there's a penalty not only on the employer who is intimidating or coercive to the employee but also on the union?

**Mr Tooley:** I would think that a union would have very little to gain by trying to intimidate employees during an organizing drive. However, I can see the benefits of the employer—and we see that all the time—trying to take petitions around and going through long ways to circumvent the organization of any union drive. Certainly we would support the change that would prevent the employer from trying to coerce the organizing drive once those workers have expressed an interest in belonging to a union.

**Mr Offer:** I guess my concern was that if there's an organizing drive, I want to make sure the legislation protects the men and women who are being organized, from whatever source. The way I see it now, they're being protected in some fashion against any action by the employer, but not on the other side of an organizing drive, and I just have some concerns that way. But thank you for your thoughts.

**Mr Villeneuve:** Gentlemen, thank you for being with us. I notice on page 6 that you want the OLRA to make it mandatory for newly certified employers to immediately be bound by the current provincial agreement.

**Mr Tooley:** That is the law.

**Mr Villeneuve:** Yes, and you strongly support this. Have you had occasion to speak to the 75% or more of the businesses represented by the chamber that was in the



chair immediately prior to your taking over? The fact that they're very concerned because they employ 10 or less people and that indeed the likelihood of these first contracts coming to their shop in the rather immediate future—have you had opportunities to discuss this with some of these smaller businesses?

**Mr Tooley:** There seems to be a real hysteria from the business community that, once workers become unionized, you're going to be paying them all \$30 an hour. That's a real fallacy. We have many contracts or many unions that are affiliated to the labour council and those workers are unionized. They're in the \$8- to \$9-an-hour range, which is a long way from the—if you use the extreme example the chamber would have you look at, we certainly wouldn't agree with that. There are many, like I said, who are in that \$8 to \$9 range, and they've been unionized a long time.

**Mr Villeneuve:** You say on page 2, "The right to organize domestics, security guards, professionals and agriculture workers is long overdue." Would you like to see agriculture workers be under the umbrella of Bill 40 as it now stands, or would you be looking for special legislation for them?

**Mr Tooley:** I would certainly like to see them have the same opportunity as the rest of the workers in the province. I think they should be afforded every opportunity to have the rights and benefits of being unionized.

**Mr Villeneuve:** Are you aware of the agriculture task force on labour reform?

**Mr Tooley:** Yes, I am.

**Mr Villeneuve:** Do you agree with that, or would you like to see it under Bill 40 without that?

**Mr Tooley:** I suppose there have to be some special considerations taken, and I still think I would like to have seen it underneath Bill 40.

**Mr Villeneuve:** Thank you.

**Mr Stockwell:** Just a quick question: A membership is on strike. I assume you oppose anyone who is on strike from going out and getting another job during that period of time.

**Mr Fraser:** Who are you asking that?

**Mr Stockwell:** It doesn't matter.

**Mr Fraser:** Do you want to answer?

**Mr Tooley:** Why would I oppose that?

**Mr Stockwell:** I'm asking you, though, are you opposed to that?

**Mr Tooley:** Certainly not. If there's a job out there, why not?

**Mr Stockwell:** But you're opposed to the person who owns the plant or the manufacturing operation hiring people to operate so he may continue to pay his bills and so on and so forth.

**Mr Tooley:** I think there's a little bit of a difference between a worker looking for employment and a scab coming in to take his job. We have found that for every \$10-an-hour job, there's a worker willing to come in and take that job for \$8. Then I suppose there would be one

who would be willing to come in for \$6, and I think you could go right down the scale until you're at the very bottom.

**Mr Stockwell:** That may be true, but explain to me the difference.

**Mr Fraser:** It is a question of economics. Some labour organizations that are large and financially sound can afford to give their members something to offset for groceries and stuff when they're on strike or in a lockout situation.

But in either a lockout or a strike situation, that area where the dispute has taken place is on hold, and that's what puts the pressure on to reach an agreement. If the employer is allowed to continue his operations freely, then he'll just simply smash the union. So where we have no objection to our members going out to find other employment, we also have no objections to the employer going out and finding other employment, but that place that's struck stays shut down.

**Mr Stockwell:** Last question: The people who in fact own it—say, it's a small business and so on—and they go on strike, don't you feel that by not allowing it to operate, you're just forcing a business to capitulate?

**Mr Fraser:** No. I'm glad you asked that question, because I want to point out to the other opposition members: Show me a trade union anywhere in this country, in fact anywhere in this world, that wants to put the very person or employer it's working for out of business. It just simply is not so. What they want is economic justice from that employer, and we have massive amounts of agreements to show that, through unionization, we have brought some standard of living to most of the citizenry in this province and country, including the employers in the non-union area.

**Mr Stockwell:** But doesn't that person have the right to disagree with you?

**Mr Fraser:** Absolutely.

1630

**Mr Stockwell:** Doesn't that person who owns the business have the right to say, "Gee, I don't agree with you"? Don't they have the right in a democracy to say, "No, I don't agree with you and if you want to go on strike, go on strike, but I'm going to continue operating because if I don't, I'm going to close down"? Isn't that a democratic process?

**Mr Fraser:** No, that's not a democratic process.

**Mr Stockwell:** It's not?

**Mr Fraser:** No, it's not.

**Mr Stockwell:** And unions don't intimidate, of course. Only owners and management do etc. It seems like you're looking at this through rose-coloured glasses.

**Mr Fraser:** That previous question was asked before. Based on my experience as an organizer, I have never, ever signed up employees or had a secret vote or done anything where the employer didn't fight like hell to smash the union. That's based on my experience.

I would like nothing better than the kind of proposals that are in this legislation that suggest the parties get together and we do away with that intimidation. In my experience, I've never had a situation.

**The Chair:** Thank you to the Sudbury and District Labour Council, Barry Tooley as president and Barry Fraser as a rep from the Canadian Labour Congress. We appreciate your coming here this afternoon. We're in your home town and we've found the opportunity to hear your views a valuable part of this process. Thank you, people. Take care.

**Mr Fraser:** Thank you for bringing the nice weather with you.

**The Chair:** That I will take credit for, if I'm allowed. We'll share that with the whole committee.

#### ALGOMA MANITOULIN AND DISTRICT LABOUR COUNCIL

**The Chair:** The next participant is the Algoma Manitoulin and District Labour Council. Please have a seat and tell us your names and titles, if any. A written brief has been distributed that forms part of the record by virtue of being made an exhibit. All of the members are going to read that carefully.

**Mr Norman J. Garvie:** Mr Chairman, my name is Norm Garvie. I'm the president of the Algoma Manitoulin and District Labour Council. The gentleman beside me you already know, Mr Barry Fraser.

I would like to thank you for this opportunity to present this brief in response to the government's proposed amendments to the Labour Relations Act on behalf of the Algoma Manitoulin and District Labour Council.

In regard to the purpose clause, it is the opinion of this council that it is in the best interests of Ontario to facilitate the rights of employees, if they so choose, to select a union of their choice, join and be represented by a certified trade union and to participate in its activities. We believe it is imperative that this purpose clause become an integral part of the act and that it be worded as strongly and clearly as possible so that adjudicators will be mandated to make decisions consistent with the act. Only in this way will Ontarians be able to develop a democratic society as equal citizens.

**The right to organize:** Extending the right to organize to a number of groups that are currently excluded by provincial legislation is a definite small step in the right direction. I would like to remind you that presently in Ontario there are security guards and supervisors who, because they are under federal jurisdiction, have joined unions of their choosing. There have been no conflicts of interest because they operate and bargain for contracts as separate bargaining units.

In regard to organizing and certification, workers in Ontario must be protected from those employers who react to an attempt by a union to organize their workforce by making an example of one or more of their employees who they believe to be active in a union's organizing drive. You would be hard pressed to find anyone active in the union movement who does not have personal knowledge of some poor soul who found himself or herself out on the

street with no source of income and, in many cases, black-balled simply because he or she wanted to be treated fairly.

We feel that the \$1 membership fee was never a real issue as far as signing up potential union members was concerned. The only real purpose of the membership fee was to supply employers with an opportunity to delay and frustrate a certification application.

Here in Ontario we live in a democratic society where the wishes of the majority decide who will hold political office federally, provincially and in municipal governments. In many cases the winner does not obtain more than 50% of the vote, but he or she does receive the most number of votes of all those vying for those positions. Labour's desire to have the majority vote prevail during a certification process would hardly seem out of line with the basic concepts of any democratic society.

This labour council believes that petitions, many of which are orchestrated by employers, should be eliminated completely. They are used to cause a substantial delay in the certification process, prolong litigation and damage newly created and often fragile bargaining relationships. If workers wish to decertify, it can be done by applying to the board in the months just prior to termination of their collective agreement. We therefore request that the government take the necessary further step and completely eliminate petitions and revocations.

This labour council agrees with the amendments to section 6 of the act, which directs the board to find that a single union of full-time and part-time employees "shall be deemed by the board to be a unit of employees appropriate for collective bargaining." These amendments will not only address the low rate of unionization among women and visible minorities, who represent the majority of part-time workers; they will also assist in creating bargaining units strong enough to act on behalf of its membership instead of small, fractured, ineffective organizations.

The issue of consolidation of bargaining units is of particular concern to this council. The proposed language is at best permissive and vague. Statements such as "cause serious labour relations problems" or "different methods of operation or production" could be debated until an eternity has passed, with no resolution as to their meanings. The whole section on the combining of bargaining units must be rewritten to provide greater clarity and focus.

There are improvements in the language on first-agreement arbitration, but unfortunately not enough has been done. This labour council endorses the position of the Ontario Federation of Labour that access to first-contract arbitration should be granted upon application by the trade union. The Ministry of Labour's argument that a 30-day period was a necessary deterrent "for either party seeking to avoid the requirement to bargain" is based upon the assumption that it is in the interests of both parties to reach a settlement. What better union-busting opportunity would the management of a newly organized company have than to stall negotiations on a first contract and perhaps even orchestrate the union into a strike position?

In the area of anti-scab labour, Ontario is finally, after 14 years, following Quebec's lead and moving closer to the 21st century. The evidence is clear that in Quebec there



has been a decline in picket line violence and hostility. The Quebec Ministry of Labour reports that there has been a decline in both the number and length of disputes, in part accountable to the legislation.

Regrettably, the proposed amendments fall short by allowing non-bargaining-unit employees to perform the work of striking employees. Admittedly these employees have the right to refuse such work, but even here the employer is not required to advise such employees of their rights. As long as employers can relocate, contract out or use non-bargaining-unit employees along with supervisors to do bargaining unit work, the duration of strikes will not be appreciably shortened. The Algoma Manitoulin and District Labour Council is resolutely opposed to these serious omissions in the amendments.

This council is in full support of the new statutory provisions concerning a back-to-work protocol. The employer being obligated to reinstate will have a positive impact on those few lengthy strikes where employees and their union have little bargaining power left.

The government has failed to provide a new and more precise definition of what constitutes a strike. Any withdrawal of services by a worker is deemed to be a strike, while a lockout only consists of those reductions in services by employers that are intended to compel workers to accept different conditions of employment. The two provisions are far from being equal. This council does not consider it to be in the public interest that this inequity continue. Other jurisdictions across Canada have moved to loosen the current statutory restrictions on strikes during the term of a collective agreement, and we urge this government to do likewise.

**Grievance arbitration process:** The proposed time limits to be applied to the arbitration mechanism are long overdue. The system currently in place creates long, frustrating delays not understood by most grievors, and these often result in misunderstandings between unions and their membership.

The proposed amendments expand the role and jurisdiction of an arbitrator to include the many other sources of legislation which can affect the outcome of an arbitration. This labour council recognizes the need to consider all of these factors, but we cannot stress strongly enough our opinion in regard to what we consider to be the motherhood right of all unions. That right is seniority. We believe that in any employment situation that results in the downsizing of a workforce, providing an employee can perform the work or be trained to perform the work that is available, the senior employee must be maintained.

The language in regard to successor rights in the sale of a business whereby the successor employer will be bound by any and all terms already negotiated will ensure that bargaining rights and obligations are not delayed or avoided. The concern of this labour council is that there has been no inclusion of provisions in regard to the sale of assets in the sale of a business. What protection is there for employees where an employer sells off only a portion of the business or where employees are engaged in similar work at the same premises where the vendor of the assets conducted its business?

The amendments also fail to provide adequate protection to employees in circumstances of plant relocation. A union's bargaining rights and the rights of the employees should not expire because an employer decides, for whatever reason, to relocate to a new location in Ontario.

The labour movement applauds the inclusion of successor rights to the sale of business between federal and provincial jurisdictions.

#### 1640

**Adjustments and changes in the workplace:** There are some limited steps forward in this area, but on the whole the amendments on plant closures and adjustments do not meet the needs of the employees, particularly those confronted with layoff. The proposed amendments require the employer, in the case of plant closure or en masse layoff, to bargain in good faith and make every reasonable effort to negotiate an adjustment plan. The adjustment plan itself is permissive, not obligatory. If an adjustment plan is concluded, the amendments do not mandate what must be included in the plan but merely suggest what may be included and do not even insist that an adjustment plan be concluded. The parties are only required to intend to reach an agreement and to make every reasonable effort to that end.

The government of Ontario is to be commended both for initiating a full consultation process enabling all views to be heard and for proposing significant amendments on labour law reform. Bill 40 represents a far-reaching and progressive package of provisions which will help working people in Ontario maintain and advance their standard of living and quality of life.

At the same time, we have tried to point out a number of these areas where the government proposals are in our view either incomplete, such as the remaining space for petitions, or seriously inadequate, such as the gaping loopholes in the anti-scab legislation.

The current act, with its separate plant-by-plant or office-by-office organization structure negotiations and distinct collective agreements, was designed in the 1930s for large manufacturing enterprises. It was not designed for small workplaces or for the service sector, where approximately seven out of 10 Ontarians are currently employed. These employees are overwhelmingly unrepresented by a union, have significantly lower levels of compensation than unionized employees and their job security is often highly tenuous.

Broader-based bargaining structures, by which we basically mean structures of worker and employer representation for purposes of collective bargaining beyond the level of the workplace—that is, on a sectorial or regional level—hold out the potential of extending unionization to those most vulnerable in the economy. It is for purposes of enabling two thirds of the workforce, particularly those in small workplaces and the service sector, to exercise their democratic right to organize in order to improve their economic circumstances and life chances that the Ontario Federation of Labour and the Algoma Manitoulin and District Labour Council support a full-scale study into broader-based bargaining.

We therefore ask again that the government consider our request. A major credible study into the applicability and viability of broader-based bargaining structures for the growing number of employees in the small workplace and service sectors could well complement the study already initiated by the Ministry of Labour on bargaining structures for domestics and home workers in the garment industry.

In conclusion, we would like to take this opportunity to thank the resources development committee for taking the time to hear our views. We trust our concerns will receive serious consideration in the final writing of this legislation, which is so very important to our members and the people of Ontario as a whole.

**The Chair:** Thank you. Mr Brown, from Algoma.

**Mr Brown:** Manitoulin. Thank you for taking the time to come all the way to Sudbury and presenting such a comprehensive view of the bill. I was interested in particular, going through your submission, in the section dealing with part-time employees and full-time employees amalgamating into one union and the fact that it appears the labour board would have the right to order that.

My concern is that often, I'm told, part-time workers and full-time workers do have different views of what they want out of the collective bargaining system. For example, full-time employees often have far more interest in pensions and benefits than part-time workers. Often the part-time worker is in many instances more concerned with straight wages because perhaps the spouse has the benefits or whatever. We're told that often there are differences in what the objectives might be between a part-time unit and a full-time unit and the amalgamation may put one or the other at a disadvantage. I'm just interested in your comments on that, given that we would like to see the individuals gain what they want out of collective bargaining as much as possible.

**Mr Garvie:** What is your question?

**Mr Brown:** My question is, do you think that's a problem? Do you see a difference between part-time and full-time workers in what they may want from the collective bargaining system?

**Mr Garvie:** Basically I think all workers want the same thing. Number one, they want to get what they consider to be a proper living wage. They want to have security in their job, whether it be for a part-time or a full-time. Some people choose to work part-time. Others work part-time because that's the only way they can work. I know of several people who work in three or four different locations, all on a part-time basis, because those are the only jobs they can get in today's economy. But the fact remains that all they're looking for is security and a decent wage.

**Mr Brown:** I guess my concern just comes from the fact that I was on the hearings last week and I've heard this expressed by workers, that they had some difficulty that they may lose in this combination of full-time and part-time. You can see the example that in some labour forces part-timers are the preponderant part of a workforce and they may then be not particularly interested in benefits, pensions etc, whereas full-time workers may see that as

their priority rather than wages. In the bargaining, one may be at a disadvantage if they're combined contrary to the will of the unit. You don't see a problem there?

**Mr Garvie:** No, sir, I do not.

**Mr Brown:** You think that everybody would be happy.

**Mr Garvie:** The bargaining process takes care of it. The majority of the membership rules. Hopefully the union itself will have enough intelligence to realize what the needs of the membership are, whether it be for the part-time or for the full-time.

**Mr Brown:** My problem is, though, at least the way we read the legislation, in order for the amalgamation to take place, you don't need 50% plus one in each of the two bargaining units that are there, the full-time and the part-time, to have the combination. So it's conceivable that one of the units would want to combine, the other would not want to combine, yet they would end up being combined. Do you see that as a problem? No?

**Mr Garvie:** No. Maybe my wick isn't touching the oil here, but I'm not really hearing a question from you, sir.

**Mr Owens:** I'd like to pursue Mr Brown's line of questioning, although taking a different tack. I think the phrase Mr Brown was struggling to find was "community of interest." It's my view that the full- and part-time workers generally have the same community of interest in that, and Mr Brown seems to be reflecting on back in the old days when part-time workers tended to be students who were working summer jobs. In that case the scenario may be all right.

In my previous life, prior to my election, I was president of CUPE Local 2001 at Toronto General Hospital and was involved in organizing the part-time workers into the local. We struggled valiantly but unsuccessfully to have the part-time workers included in the full-time bargaining unit. We felt it would be a saving of public dollars in terms of negotiations to bargain for both groups at the same time.

I'm just wondering if you could expand a little bit in terms of your comments of the like-minded interests of full- and part-time workers.

**Mr Fraser:** The question of the community of interest is, as was said, the same for both part-time and full-time. Often part-timers are excluded from benefits, when they need them just as much as the full-time employees, and often employers, for reasons of cutbacks or competition or whatever, are putting people on part-time who don't want to be.

My view on the two of them being combined in one bargaining unit is that the organization that represents them brings them into a meeting and they discuss all of these problems. We have in all kinds of agreements different conditions for different workers, but it's all worked out.

First of all, the union sets its process, then it meets with the employer and then in the end there's a collective vote taken whether or not to accept the agreement. So I don't see it as a problem. I think it's actually on the plus side.



**Mr Ward:** We've been listening to a number of presenters, both for and against Bill 40. The critics of Bill 40—some, not all—have suggested that implementing the amendments tilts the perceived power, I guess, in favour of trade unions over business interests, and they're suggesting that under the existing act there is a balance of power in existence today.

From your experience—and I understand from both of you it's quite lengthy in the labour movement—do you have the same perception that there is a balance of power in existence today under the current act, and what is your view of how this so-called power will be affected by Bill 40?

**Mr Garvie:** I've been hearing a lot of people over the course of the day talk about the low percentage of the people where there are people organized, the low percentage of people where there are problems, and I've heard some employers sit here and talk about how good they are. We will have to be the first to recognize that where you have a supergood employer, somebody who gives you everything you want and bottle-feeds you and hands you these supergood bonuses every year, I don't care how much a union is going to offer you, you are not going to go in there and organize that place, because you have no need for a union. There's nothing mandatory or obligatory here on all labour to join unions.

**Mr Owens:** Like Magna?

**Mr Garvie:** Yes. There are several big businesses and small businesses that have no need to be unionized.

One of the learned gentlemen on this side was saying: "Are you now going to mandate in regard to anti-scab laws? Because a very small percentage of people create violence on the picket line, are you now going to put in laws that say that because 1% of the people on a picket line cause violence, you're going to stop having employers getting in to perform the work while the other people are on the picket line?" I would suggest to him that less than 1% of the people in Canada are murderers, but there are still laws about murderers.

**The Chair:** I want to say thank you to the Algoma Manitoulin and District Labour Council. Mr Garvie, president of the council, you've spoken effectively on behalf of your membership. We appreciate your filling in at the last minute in view of the cancellation that had taken place. We're grateful to you.

**Mr Fraser:** Just on the light side, unless it's to the opposition, I understand the New Democratic Party staff are organized and they're the government.

**Mr Stockwell:** Some would say they are disorganized.

**Mr Offer:** On a point of order, Mr Chairman: I have just been presented with a presentation submission made by Mr Rick Briggs, who is the president of the Sudbury Mine, Mill and Smelter Workers Union, Local 598, of the Canadian Union of Mine, Mill and Smelter Workers. I think it's an important presentation.

**The Chair:** Is it pertinent, Mr Offer?

**Mr Offer:** Well, I think it's an important presentation. They haven't been able to get on the hearing, but I believe and would hope that these presentations would be submitted around and form part of our record.

**The Chair:** Thank you, Mr Offer. I'm not going to go so far as to infer that was an endorsement of the recommendations made by Mine Mill.

**Mr Offer:** It was important.

**The Chair:** They appreciate your support of their interest in this legislation, and this will form part of the record, as you know.

It's a problem that has plagued this committee. There have been in excess of 1,200 individuals and groups who have wanted to make presentations. Notwithstanding the time the committee is sitting, five weeks of hearings, and most of those days from 10 am until 9 pm, not all of those people have been able to be accommodated, which is why the committee provides for written submissions.

The members of this committee will read this submission, it will become an exhibit and part of this record, and the members of the committee will take into consideration the contents of this submission when they do the clause-by-clause consideration of the bill. I am sure Mr Offer will remind them of that in the event nobody else does.

Thank you, Mr Offer. Are there any other matters for the committee?

**Mr Stockwell:** No, I agree to hear the last deputation. I agree that it should be heard.

**The Chair:** You just heard them, sir.

**Mr Stockwell:** I guess I was too late.

**The Chair:** We are recessed until 6:30.

The committee recessed at 1655.

## EVENING SITTING

The committee resumed at 1830.

## CANADIAN UNION OF PUBLIC EMPLOYEES

**The Chair:** It's 6:30. We're going to resume. The first participant this evening is CUPE, the Canadian Union of Public Employees. Sir, please tell us your name and title if any and proceed to tell us what you will. Try to save at least the second 15 minutes for exchanges. Go ahead.

**Mr Ron Moreau:** My name is Ron Moreau. I am national representative of the Canadian Union of Public Employees and I'm the coordinator for Ontario municipal employees' groups, working out of the regional office in Toronto. I'm a pinch-hitter today for the two representatives in the city of Sault Ste Marie who are the guests of the Ministry of Labour, I believe, two grievance settlement officers who are insisting upon resolving problems today. Unfortunately, as a pinch-hitter I haven't had an opportunity to prepare a draft of my comments, so I hope you will be able to manage. I'll try to go at a speed that is a reasonable one.

I'm going to try to avoid touching some of the points that have been covered by other speakers today. I'm sure you get tired of hearing some of this stuff, but I don't think any of us get tired of telling you about our views. I'm no different from anyone else.

I have heard, both in the hearings that are taking place here today and in other forums, that one of the problems with the amendments being proposed in Bill 40 is that this is not the appropriate time. I suggest to you that I am inclined, from time to time, to agree with that. Perhaps 10 years ago would have been the appropriate time. However, as these things go, sometimes we have to wait for improvements. I suggest to you that in general Bill 40 provides certain improvements that the labour movement can be satisfied with. However, I suspect that in some areas many of us feel there are shortcomings.

It seems to me that the gist of the legislation is to provide trade unionists and the people they represent with some degree of empowerment that they have not heretofore had. I think one of the problems that we face, and that I've heard in these hearings and in previous hearings, is that there is still a strong sense among employers throughout the province of Ontario, and probably across Canada, that unions are an inconvenience they have to deal with but would rather not.

I suggest to you that there are examples around the world, particularly in western Europe, that indicate that where the trade union movement and the workers represented by the trade union movement are considered to be equal partners in the economy, the relationships that are established through that sort of acceptance are such that there are substantially fewer strikes. There would be less need for discussion about strikes and their implications and about the use of replacement workers, as some people euphemistically call them, because there would be more harmony in the acceptance of trade unions and their memberships as partners in the global economy of the country.

I want to speak briefly about the right to organize and the fact that it has been extended to some people and, unfortunately, not to others. Clearly there are examples under federal legislation which indicate that the concern that has been expressed by employers with respect to the organizing of security guards is unfounded. We have examples not far down the highway—in Elliot Lake, for example—where the security guards have been organized for many years in the uranium mining industry, or where it was, at least. There were no conflicts of interest demonstrated there.

With regard to hunters, trappers and domestics, one wonders, I suppose. It's great that they are going to be given the same sort of respect and dignity that other workers have been demanding, but I don't know, in terms of practicalities, whether that is going to provide much of a victory. But certainly to extend to those people the same rights is a step in the right direction.

I noticed that the legislation, if I'm not mistaken, falls short with respect to the issue of supervisors. We heard this morning the president of the Sault Ste Marie Chamber of Commerce, whose husband, I believe, is a supervisor at St Marys Paper, indicate that her husband receives \$15,000 a year less than the people he supervises. I suggest to this committee and to the president of that chamber of commerce that she ought to be here arguing in favour of further changes to Bill 40 to provide that supervisors have the opportunities that other workers have in the province of Ontario. Those of us from Sault Ste Marie know the frustrations that the supervisory staff at Algoma Steel lived through for many years after many abortive attempts to form associations. We all know how they were, many of them, summarily let go when times got tough. I've spoken with many of these people whom I worked with, and the frustration, even though they are long gone, is still with them.

I want to speak just briefly to section 92.2 with respect to unfair labour practices and the expedited hearing. The union had argued, and I think certain recommendations were, that the hearing should take place within seven days. I understand that the amendments will allow one to take place within 15 days. I and the union think that is a move in the right direction.

A number of years ago I organized a hospital in northern Ontario, in Hornepayne. About twice a week I had to call the operator of that hospital and advise that he was, through his activities on the premises of the hospital, in violation of the Labour Relations Act as it currently exists. It was an ongoing battle.

Fortunately, sometimes when employers take that sort of stance they're the biggest help an organizer can get. The numbers grew as the intimidation expanded, but there are a lot of hard feelings there even today. I would suggest that a lot of the difficulties we encountered in organizing that hospital could have been eliminated rather rapidly if this legislation had been in place at that particular point in time.

An area of particular concern to the Canadian Union of Public Employees is access to third-party property. I'm



sure you all are aware of what's happening in the hospital industry, and that's just one example, where what is likely to take place over the next few years is the emphasis on hospitalization will lessen and we will see more and more people receiving interim health care in community clinics. The hospital workers will tell you that's bad and we have to stop it. I'm not sure it's totally bad and I'm certainly not sure that we can stop it.

One of the things we're going to have to do is go where our current members have had to go to work in the same field of endeavour—that is, the community-based health clinics, many of which are going to be established and are currently being established in shopping malls and other such locations.

It is crucial to the wellbeing of existing CUPE members who will find themselves working for other employers in the not-too-distant future to have access. It's clear that there are difficulties with the legislation, it seems to me. I don't know what "undue disruption" means and I'm certain that some employer will argue anything from soup to nuts, but we'll cross that bridge when the time comes. Clearly there are some improvements for us in terms of protecting the rights of existing members in future employment.

I was interested to note that while I think it had been initially proposed that the numbers with respect to automatic certification should not be much lower than 50%, they've returned to 55%. I even take issue with numbers below 50% on automatic certification, quite frankly, although many of my colleagues do not. I would take similar issue with numbers such as 55%.

It seems to me that the members I'm sitting in front of could have been elected with 50% plus one, that federal members would have been elected similarly and that mayors and councillors in municipalities are potentially elected with 50% plus one, but potential trade unionists somehow or another have to be elected with 55%. I will, however, say that the change in terms of getting a certification vote, from the present 45% to 40%, is a major improvement.

I don't know how many of you sitting on this committee have been involved in organizing drives, but I'm familiar with one drive in particular that has been undertaken, I think, three times in the city of Toronto, and that's the clerical staff at the Toronto General Hospital. I want you to know we can't find them most of the time, let alone organize them. Reducing these numbers would certainly be helpful in terms of getting a vote that would be of advantage to the union.

That also speaks to the issue of lists and access to that information. I think it is unfortunate and unreasonable that the trade union seeking to organize should not be provided with the same information that the employer has and that the board would ultimately be entitled to and working with during the certification process.

1840

I'm of course happy that some change has been made with respect to the issue of petitions, but the trade union I represent clearly would prefer that petitions be removed entirely from the process.

I've been recently involved in an organizing drive at the Markham-Stouffville Hospital. The terminal date for

that organizing drive expired last week. It was reported to me by the organizers in the early part of the drive that there had been a meeting held in the maintenance department of the hospital wherein there was a discussion undertaken about the apparent organizing drive at that hospital.

Interestingly enough, within a matter of days of that meeting there was a petition being banded about the hospital for signatures, and there was every indication that it was inspired by the management people in the department in question. Whether that mattered or whether there were sufficient signatures on that thing, at this point I do not know; my understanding is that they were getting people to sign who were not being organized, so it probably is a moot point.

But the point is this: They're often inspired by management people who seek to disrupt the process, who seek to ensure that the union doesn't get a foothold and that the members do not get the opportunity to be properly represented, as is suggested in the earlier provisions of the legislation.

I want to talk to you a little bit about the 55% required to combine bargaining units. Those of us who have been organizing for some time shake our heads from time to time about the positions taken by employers with respect to the number of bargaining units they would like to negotiate with.

A few years ago, I organized a hospital, again the hospital in Hornepayne. At the time, there were 43 employees who were affected by the organizing drive. The employer suggested it wanted six bargaining units: service full-time, service part-time; clerical full-time, clerical part-time; paramedical and laboratory. With 43 employees, 417 kilometres north of Sault Ste Marie, this hospital wanted to have six separate rounds of bargaining. I suggest to you this hospital only wanted to frustrate the process of certification. In the end, we in fact wound up with two bargaining units that bargained together on one single committee because it makes sense.

In the case of the Toronto Hospital corporation, where we have a multitude of bargaining units both at Toronto General and Toronto Western, while they were certified that way, we're all sitting in the same room, all attempting to come to the same sorts of agreements because it makes sense and because it works in the best interests of both parties.

I want to speak to the issue of first-agreement arbitration as well. I've had some experience with that in the federal sector. It seems to me that the labour relations people develop is a learning experience, and policing and administering a labour agreement can be a wonderful classroom for both sides. However, the mindset of many employers is: "We don't want the union. The union is an inconvenience. The union is a miserable contrivance that is here to make things unpleasant for us, and we're not prepared to bargain in good faith and we're going to do everything we can go to frustrate the process."

In the case of the former Huron Broadcasting Co in Sault Ste Marie, which has now sold its assets to numerous and sundry other people, there was a bitter strike. The employees of Huron Broadcasting ultimately, I think, were the first in Canada to avail themselves of first-contract

arbitration. I serviced that unit for many years afterwards, and we developed, as a result of having an agreement in place and the responsibility of maintaining it, a working relationship that exists even until today with all the various and sundry employers who now own parts of that operation.

It seems to me that we ought not to have the kinds of strikes we've had in the history of this province for first agreements. The mechanisms that are in place, even the proposed mechanisms, may not be satisfactory, but at least it's a step in the right direction.

I want to close so that we have an opportunity to chat a bit. I'll close on the issue of the use of replacement workers. We all know those people are scabs, and I'm sure I don't have to pull out the dictionary and read what it says in that dictionary or any dictionary with respect to the description of a scab.

The right to strike, I suggest to you, is an essential element to good labour relations. I want to give you some examples because, while I'm responsible for the Ontario Municipal Employees' Coordinating Committee at CUPE, I'm currently working exclusively in the hospital industry. In the hospital industry, as you are well aware, workers don't have the right to strike; they have interest arbitration. Interest arbitration has produced some rather nice awards from time to time, but they're very long in coming.

But let me tell you what's happening in the hospital industry because of it. Workers don't have to make tough decisions and bosses don't have to make tough decisions, because there ain't going to be a strike: Some third party is going to make a decision, ultimately, in the end.

Unfortunately, the problem with that is that it spreads. It spreads to the labour relations field. It spreads to the day-to-day resolution of problems and grievances, and these hospitals have hundreds upon hundreds of cases that go to or go very close to arbitration every year. Why? Because nobody will make decisions, because they don't have to make decisions.

If you have the right to strike, you've got to make some pretty tough decisions. I've had two strikes since I've been at CUPE and I've had one or two before I came there. Those decisions were not taken lightly. Strikes are very miserable, difficult things for all involved and should be kept as short as possible. One way to do that is to ensure that people can't come in and scab the jobs of striking workers.

I want to speak also to the issue of using other employees to replace. It has been said here before that strikes don't get nasty until there are scabs involved, and that's been my observation as well. I think it's a despicable possibility to use other workers with whom we must go back and work side by side in the future, because you'll lose a whole lot more productivity over the years to the animosity that creates than you would lose to a lengthy strike.

It seems to me and it seems to our union that the general premise of this legislation is to do what enlightened employers are attempting to do on their own now, and that is to see that the members of the trade union become equal partners in that endeavour. It doesn't mean we won't have disagreements. It doesn't mean there won't be some adversarial activity from time to time, but it does mean that we

can, wherever possible, wherever practical, work together and provide for relationships that are productive rather than counterproductive.

I commend the government for this move. Someone suggested earlier today that it is gutless. I suggest to you that to bring forth this legislation at this time took a great deal of intestinal fortitude. It may not be popular with a lot of people. I won't wait or try to skirt the question that's going to be asked me. Is it possible that some employers don't like the legislation? You bet your butt it is. There are all kinds of employers out there—not all employers but all kinds of them—who feel it's appropriate to make profits on the backs of workers, and if workers are empowered and have the right to sell their labour at reasonable prices, they can't do that. Clearly, if we're empowering workers, as so many other organizations in society are already empowered, then there are going to be fewer enlightened people who are opposed to the legislation. So be it. The vast majority of Ontario's workers, if they have the chance to read and understand the legislation, will understand that it is in their best interests that the government of the day pass it.

Thank you, and I would be happy to answer any questions.

**Mr Stockwell:** I'll be brief. The difficulty I have with the comments you made, sir, is that it would seem to me that if you can't operate your business when you're being struck, you unquestionably have shorter strikes—I don't doubt that for a moment—simply because the operator, whoever that may be, will after a brief period of time be forced to capitulate. Is that a healthy process for ownership-management?

**Mr Moreau:** I don't see it as capitulation, although people might use that particular term. We've watched our first ministers in a negotiating process over the past few weeks. One might say they capitulated. I think they probably acted in the best interests of all Canadians. At the bargaining table, yes, pressures are brought to bear. That's how resolutions are undertaken. And yes, the union is forced by the length of a strike to capitulate, if you will, and I think employers are forced to capitulate. The reality is, they're forced to strike an agreement that is a reasonable and sensible one for the most part.

1850

**Mr Stockwell:** But fundamentally, if that operation can no longer operate, can no longer produce, it can no longer create revenue. They have no alternative but to capitulate in the end if they're going to stay in business. Your argument, as I see it, is that it will shorten the strikes, will create a better environment. The only reason it will do so is because you're forcing owners-operators-managers to capitulate during a strike process or close down, because they're not allowed to operate.

**Mr Moreau:** I think we're forcing employers to suffer the same sort of inconveniences we ourselves are. I mean, I heard the situation at Algoma this morning described as a strike. How soon people forget the true nature of the circumstances. I suggest to you it was a lockout. There's every indication there was a lockout. Does that change the



complexion? Does that change the suffering of the worker or the suffering of the company? I suggest not.

**Mr Stockwell:** Then why don't you change the legislation to allow non-operation only when it's a lockout rather than a strike?

**Mr Moreau:** I haven't drafted the legislation, and I suggest to you that if that is your proposal for amendment, you should make it. I suppose you already have, if that's your feeling.

**Mr Stockwell:** So I'll get your support then.

**Mr Moreau:** You take it that I support what?

**Mr Stockwell:** I assume, with your previous comments, I would get your support. If it's a lockout, you can't operate; if it's a strike, you're allowed to operate.

**Mr Moreau:** No, I wouldn't suggest that for one moment.

**Mr Stockwell:** Secondly, with respect to gutless, I just want to clarify. I didn't call the government gutless. I have on a number of other occasions, but I didn't happen to call them gutless with respect to this piece of legislation. The gutless part—and I'd like you to respond—is the fact that they haven't done any study, there's been no report, there's been no wide-ranging investigation into the effects this legislation will have on the workforce, whether it will be diminished etc. There have been some private studies done. They've all shown that there will be job losses. The government has said it doesn't buy into the studies that were done. They've been challenged on a number of occasions, for weeks upon weeks upon weeks, and they offered some muddled, hare-brained response.

Don't you think it's important, if we're going to enter into this kind of legislation during this kind of economic period, that we should have a good understanding about whether this kind of legislation will cost jobs in Ontario today? If not, why not?

**Mr Moreau:** To answer "if not, why not" first, it seems to me that the legislation simply provides a sector of society with a reasonable opportunity to organize and do the kinds of things in terms of the sale of its labour as the corporate entities do in terms of the sale of their product. I don't understand how it's possible that the corporate entity can see that as somehow or another being subversive.

**Mr Stockwell:** I never said that.

**Mr Moreau:** On the issue of studies, there's an old saying that's pretty simple: Liars can figure and figures can lie. If I know the outcome I want, I can certainly produce a study that will provide that kind of information and backup, and I suggest both sides could do that if they wished to so do.

However, I suggest to you that you, your party and the other political parties, including the government, are fully aware and have been for a long while about the need to overhaul the Ontario Labour Relations Act. We have a long history relating to first-contract difficulties, strikes that have been violent, and examples of employers who simply will not settle under any circumstances. I believe you heard earlier today about a strike in North Bay that's been going on for three years. I suggest to you that is counterproductive, that is harmful in terms of the atmosphere

in the province and in terms of the wellbeing of society in general.

I have heard suggestions, at these hearings and elsewhere, that there will be an impact. I hear the figures, but I don't understand the data, and no one has explained them at any of these hearings. I suppose it's difficult to do that. I suggest to you that there has not been a mass exodus of capital out of Quebec. There are a number of reasons there might be, quite apart from the issue of whether or not there have been changes in the labour relations act there, yet it still has not happened, and I suggest to you it isn't going to happen here.

I think the problem many people have is that they sell the Ontario workforce short. We have a very well-educated, capable workforce in this province. We have an infrastructure which is second to none. We have the potential to be the economic engine of the entire region, not just Canada.

**Mr Owens:** Mr Moreau, I share your frustrations around some of the issues of Toronto Hospital Corp, having been involved in at least two and a half of those three organizing drives of the clerical workers. Your last comment, in my view, is extremely important, that people tend to sell workers short in terms of their knowledge and their willingness to negotiate good collective agreements, good for both parties. It serves neither party any purpose to have a business close down.

My question to you is, in terms of the agreements in the locals that you've handled that have been able to strike, how long did it take after the local was in a legal position to strike before the strike actually took place? Was strike the first weapon of choice or was it in fact the last weapon of choice?

**Mr Moreau:** In the case of one strike, the issue had been on the bargaining table for 18 years and was not a matter of money. It was a matter of treatment and principle. Of course, that's an agreement that had been in place for quite a long while and the strike took place only after many months and long after the potential date on which the strike could have taken place.

I think it's traditional in the public sector, perhaps for a variety of reasons, that we often go beyond the expiration date of a labour agreement, unlike some of the industrial unions. This case was one of those examples where we went well beyond in order to try to get resolution, but were unable to do so.

In the other example in which I was directly involved, it was a strike of a similar nature. It had to do with an unfairness in terms of the application of a benefit package which discriminated against women and it had been an issue that had been on the bargaining table in at least four preceding rounds of bargaining and could not be resolved.

**Mr Offer:** I have a couple of questions with respect to your presentation, certainly in the area of organizing and hopefully, if we have some time, in the private property area of a third party.

The first thing is—I've asked this question before—is there, in your opinion, any time when an employer in an organizing drive could express an opinion without it being

viewed by the employee as somehow intimidating in some fashion or another?

**Mr Moreau:** It's an interesting question. We advise, as we get into organizing campaigns—at least I do and my colleagues do—of the responsibilities of those people who will be signing cards with respect to where they sign them, under what circumstances and particularly the issue of intimidation, that there's to be none of that. We can't afford to have any question raised.

I have seen examples of interventions by employers which were less than intimidating, a recent one at Markham-Stouffville, where the employer simply outlined the rights of workers and, by implication, simply tried to make the point that workers would lose their individual rights if the union were certified. How intimidating that was, I'm not sure; perhaps not as intimidating as the activities we saw where people in Homepayne, for example, were being threatened with loss of their jobs in the event the union came in.

**Mr Offer:** I guess my question is, on the example you've just proffered, where an employer gives his or her opinion as to how the rights of the individual will be changed, do you view that as one that is intimidating?

**Mr Moreau:** Yes, I do.

1900

**Mr Offer:** Thank you. I have a question with respect to organizing drives again. There are substantial penalties in the legislation if an employer engages in an unfair labour practice, intimidation, in an organizing drive. Basically, automatic certification will result. Do you believe that there is ever an occasion in an organizing drive where a union is engaged in such an activity where the same result may occur in so far as the individual employee is involved?

**Mr Moreau:** I would be saying that I do not believe in human nature if I said to you that couldn't happen. We make every effort, and I'm sure employers do, because I've dealt with some very enlightened employers during organizing drives. I think those employers make every effort not to intimidate, and I think the trade unions in Ontario make every effort not to intimidate, but that's not to say that someone on behalf of either party could not make an error of some sort.

**The Chair:** Thank you and the Canadian Union of Public Employees for your interest and participation in this process. You've made a valuable contribution and we are grateful to you.

#### FALCONBRIDGE LTD

**The Chair:** The next participant is Falconbridge. Please come forward, have a seat and tell us your names and titles if any. We've got your written submissions. They'll be made an exhibit and will form part of the record. Please try to save the second half of the half-hour for questions and exchanges.

I remind people of course that there's French-language translation available. The receivers and earphones are available at the front of the hall. There's coffee here, so

you can make yourselves at home and comfortable. Go ahead, please.

**Mr Richard Laine:** My name is Richard Laine. I'm the director of human resources and public affairs for Falconbridge Ltd here in the Sudbury operations.

**Mr John Pappone:** My name is John Pappone. I'm manager of employee relations, Falconbridge, Kidd Creek division, Timmins, Ontario.

**Mr John Keenan:** I'm John Keenan, vice-president of human resources for Falconbridge Ltd. I'm headquartered in Toronto.

Mr Chairman and members of the committee, we welcome this opportunity to present to you our views on Bill 40. Falconbridge employs over 5,000 men and women in Ontario, and in 1991 we had a total payroll, excluding benefit costs, of \$279 million. We contributed \$65 million in taxes to the three levels of government.

Bill 40 is a lengthy piece of legislation. Because of the time constraints we intend to address only a few sections. We'll discuss their impact on our business and employees and address what we believe to be their negative effect on the maintenance of a positive labour relations climate.

However, in order to put our concerns into the appropriate economic perspective, we wish first to present an overview of the mining industry's importance to this province. The annual value of minerals produced in Ontario is more than \$5 billion, and 85% of that is exported. The industry employs 30,000 people directly and provides over 170,000 jobs indirectly. Over 90% of our expenditures are made in Canada, and mining is a major contributor to the wealth of this province.

But our industry is in decline. Exploration expenditures are decreasing, from \$218 million three years ago to only \$124 million last year in Ontario, yet on average it takes 10 years of exploration, over 25,000 claims, 500 of which are drilled, and only one results in the development of a new mine. The average exploration cost to bring in a new mine in Ontario is \$100 million. In Sudbury we will have spent \$250 million over a four-year period to bring our Craig mine into production.

The point we want to make here is that Ontario has no monopoly on minerals. The rapid decline of Sudbury from being the source of over 75% of the world's nickel to supplying less than 15% is pretty clear evidence of that. Given that exploration investment is international, we question why the government would introduce labour legislation which will create a hostile investment climate.

Ultimately the government of this province and employers in the province such as ourselves have the same goals: strong competitive industries and committed and prosperous employees. We do not believe this legislation will support these goals. In fact, we fear it will be a real disincentive to companies in making investment decisions, the long-term result of which will be reduced generation of wealth in the province from an industry which pays the highest average wages in the country.

Bill 40 will also affect existing businesses such as ours. Falconbridge operates six mines and two plants in the Sudbury area, and these operations are fully integrated even



though they are spread over 70 kilometres. The 1,500 production and maintenance employees are represented by the Mine, Mill and Smelter Workers Union, Local 598, and the 360 office, technical and clerical workers by the United Steelworkers, Local 6855.

Section 32 of Bill 40 presents a serious problem for our company in two ways. In the first place, some of its provisions will unfairly restrict multiplant operations such as ours during any strike, even more so than the restrictions that the bill places on single plant employers. Second, by those restrictions on the ability to resist strike action, the bill will work to the long-term economic disadvantage of employees, companies and communities.

In the event of a strike at our operations it would be virtually impossible to adequately maintain necessary services, including services to local communities such as water to the residents of the local town of Falconbridge, unless we could transfer non-striking employees—that is dealt with under paragraph 73.1(6)1—and unless we could use employees transferred after bargaining notice was given. Again, the section is quoted in the paper. We transfer employees frequently between the eight plants in our company, and the history of bargaining with our company is that it usually lasts from four to six months, so numerous transfers are going on during that period of time.

Another unreasonable restriction proposed in Bill 40 is the prohibition of the use of an employee, hired after the day that bargaining notice was given, to do the work of another non-striking employee if that latter employee is replacing a striker. The result of that could mean that an engineer hired several months before any strike commenced, in the early stages of bargaining, could not, in the event of a strike, cover off for a maintenance foreman if that foreman in turn was replacing a striking hoistman. Heaven knows how that can, as the government would have us believe, help us to manage and maintain our mines and properties and protect the jobs of strikers when they return.

The bill purports to provide some safeguards to enable employees to protect the integrity of their operations and property, but these safeguards are so restrictive as to either create confusion or to develop situations in which the strained labour-management relationship occasioned by a strike will be further aggravated. One example of potential confusion arises over whether paragraph 73.1(6)4 would allow the use of a nursing agency to provide health and safety services to non-striking employees.

The language of the bill is so complex that it will be so open to interpretation that the heated atmosphere in a strike situation can't help but be further inflamed by the argument that will go on over this complex and restrictive clause.

Examples of how relationships will become subject to rapid deterioration include the option which will have to be given to non-striking employees to refuse to replace strikers. I ask you to imagine the pressure situation which will face such employees in a community where many of their neighbours or family members may be on strike.

A further example arises from the complex process which will be required to get cooperation from the striking union in order to meet crucial plant maintenance, safety or

environmental requirements. Such amendments in these areas as are proposed in the bill reflect an unfortunate lack of understanding of the realities of plant operations and the dynamics of relationships during a strike situation.

Unhappily, these section 32 amendments also reflect a failure to recognize that the success of the collective bargaining system—which, as governments continually remind us and which those of us who are in the business know, result in many strike-free settlements, well over 90% of all cases—arises from the current economic balance of the right to strike versus the right to continue to operate. To destroy that balance on the pretext that it favours employers and frequently results in violent confrontation is deliberately misleading.

#### 1910

Our system, operating as it has for some 50 years, has brought great prosperity to unionized workers in this country. Violent confrontation is rare, and where it has occasionally occurred, it has been the result of a combination of several ingredients, including inadequate policing, insensitive operating practices, ignorance of the law, mob psychology and staged demonstrations.

Violence happens as often where no strike replacements have been employed as where they have, and on too many occasions, it is fostered by the belief held by some individuals that a picket line is not for the purpose of information but exists to deny the legal right of access. Here at the Sudbury operations, we are represented by two unions and contract termination dates are not the same. Therefore, if one is on strike, the other is obligated to report to work.

Section 8 of the bill, the amendments which deal with the certification process, will, we believe, create serious and long-lasting impediments to the development of a stable labour-management relationship in the province. These amendments clearly subordinate the principles of freedom of choice and the rights of the majority to a perceived need to increase union membership and representation.

Falconbridge operates a major mining and metallurgical operation in Timmins, where for 25 years employees have exercised their right not to be represented by a union. This operation has been and continues to be an excellent example of productivity and quality. Employee relations have been a model for many other companies, and our safety record is the best in our industry.

Bill 40 will significantly affect the ability of our Timmins employees to freely express their wishes in any future union organization drive. The limitations on the right of employees to express their opposition to representation unless such expression occurs before an application for certification is filed, a date which only the applicant union can know, is clearly designed to thwart free expression of choice.

Much has been said publicly and at these hearings about the purported unfair tactics of some employers to undermine the right of employees to union representation. Such tactics as intimidation, interference or employer-sponsored petitions cannot and should not be condoned. However, they are all subject to labour relations board jurisdiction, and if the board processes are not effective, that is the problem to be addressed.

It is not appropriate for the government to sacrifice democratic rights and freedom of choice at our operations through amendments which will essentially eliminate the right of dissent and give the board the power to arbitrarily certify a union if it concludes that some inappropriate action or injudicious remark constituted a barrier to determining the true wishes of employees. In our view, the likelihood of the board making such determinations in the future will be greatly increased by the amended purpose clause, section 2.1 of the amendments.

The difficulties which the government finds itself in with regard to establishing a speedy and effective process for certification, with minimal opportunity for interference or coercion either by employer or union would quickly be resolved if a supervised, secret ballot were to be held in every case within five days of the filing of an application for certification supported by 40% of employees.

We suggest that the date of the filing would commence a freeze on further solicitation or propaganda either from employer or union. Ballots contested for reasons of eligibility could be segregated, and only opened and eligibility determined if a clear majority for or against representation was not found. By such a process, the true expression of employee wishes would be identified and the climate of bitterness and mistrust which the present system engenders, and which the amendments will increase, would be eliminated.

The strength of the collective bargaining process and its contribution to the steady extension of workers' rights and economic wellbeing has developed from the balancing of the economic interest between employees who can withhold their labour and employers who can find alternative means of production. The amendments to subsection 41(1) of the act, as set out in the bill in section 19, totally undermine this process by removing the economic imperative to reach a settlement which allows employees to prosper and employers to grow.

If the bill proceeds as it is now written, there will be no reason to bargain a realistic first agreement. What would be the point? One would bargain to an impasse on every issue, wait for the minister's no-board report and sit for another 30 days.

There would be little to be gained by either side in striking or locking out, because after 30 days it would be back to work as usual. Thereafter an arbitrator would determine what costs and costly practices the employer should shoulder, regardless of economic reality or what wages and conditions an employee should obtain, again without reference to the investment needs and growth potential of the business. In other words, the public service model of compulsory arbitration which has played a part in us becoming the most indebted nation in the world will now be extended to the private sector. The current provisions of the act at least require some evidence of improper conduct. There is no justification to go beyond that.

We at Falconbridge have followed the debate on these amendments with great concern over the past year and a half. We made submissions to the minister in the consultation process here and in Timmins, but that process has been very one-sided. The arguments of the supporters of

the legislation speak to the notion that creating the kind of imbalance in industrial relations which this bill will produce will result in increased stability. Surely the opposition of employers, the media and public opinion, as well as the antipathy of investors, contradict that myth.

This province has a very high degree of union representation, higher than most, if not all, jurisdictions in North America and many within the European Community. This has resulted from our current law, which has allowed employees to make conscious and informed choices. The result has been that over one third have chosen union representation.

The current law has encouraged local choice, and the local union structure in this province is the foundation of the provincial and national labour bodies which play important roles in public policy formulation.

Falconbridge operates in Europe, and we find it interesting to note how in those countries with greater percentage union membership than in Canada the local union role is far less significant and has far less impact on local decisions than is the case in this country.

We at Falconbridge have an effective partnership with our employees, and in Sudbury with their unions also. It is a partnership based on a shared appreciation of global competition, the need to produce quality products at competitive costs and the need to generate investment capital to create future jobs and wealth.

Many other employers and their employees in Ontario share a similar appreciation of the challenges that face us. This is not a result of the level of unionization but of an appreciation that the balance of economic leverage under the current legislation does not, in most cases, allow one party to exercise power to the detriment of the other.

Bill 40, which will significantly tilt that economic leverage in favour of the trade union movement, will gradually erode our competitiveness and economic strength.

We thank you for allowing us to present our views on this critical issue.

**The Chair:** Thank you, sir. Ms Haeck, four minutes per caucus.

**Ms Haeck:** Thank you for your presentation. It's going to provide some interesting conversation for us all.

Mr Kormos and I are representatives from the Niagara Peninsula, and in the summer of 1990 we had a rather heated strike at Quebec and Ontario Paper where there were strikebreakers brought in. I think personally, from having watched how that all proceeded, it definitely lengthened the strike by many months.

It's my understanding that your offices here in Sudbury have suffered a strike recently. Is that not true?

**Mr Keenan:** We had a two-week strike in June. Two weeks?

**Mr Laine:** Ten days.

**Ms Haeck:** Was that production employees or was it office?

**Mr Keenan:** That was the United Steelworkers office, clerical and technical union.



1920

**Ms Haeck:** In your presentation, on page 1 you indicate that you see Bill 40 having a "negative effect on the maintenance of a positive labour relations climate," and on page 4 you refer to the fact that, "Violent confrontation, where it has occasionally occurred, has been the result of a combination of several ingredients including inadequate policing, insensitive operating practices," etc.

I understand the police were brought in in some large numbers to deal with that particular strike. I wonder if you would agree with me that such actions on the part of an employer can in fact have a rather negative effect on long-term labour relations.

**Mr Laine:** Richard Laine, Sudbury operations. I was the chief negotiator and chief spokesman for Falconbridge during the office, clerical and technical negotiations this year.

The OCT union, to give you a little bit of history leading up to the day the police arrived, voted on the collective agreement on a Friday. We chose to hold the operations down, allowing the other unionized employees to come to work if they chose. Basically we were prepared to take the place down to avoid any kind of confrontation. We held it down. You may not be aware that we operate seven days a week, 24 hours a day. The vote was at approximately 5 pm on a Friday, so we were in what you would call semiproduction mode the rest of Friday, Saturday and Sunday. By Monday, we were seeking to resume operations.

The picket lines were very heavy and were completely obstructing access to the gates, not only for the other unionized employees but for equipment and materials that had to pass through. We called the police to observe the situation, and that was the circumstance. We do not make decisions as employers as to what action the police need take. That's their decision.

**Ms Haeck:** Having been in a lockout position myself, as the president of CUPE Local 2220 of the St Catharines public library, we were locked out for a couple of weeks back in the fall of 1977 and we never saw a policeman at all.

**Mr Laine:** This was not a lockout.

**Ms Haeck:** I understand, but these things, according to some semantics thrown around, sort of get thrown into the same hopper and all come down to the same thing. I guess personally, at least in my view, these things do have some long-term negative impact on relations. I'm happy to hear from you that it was a short strike, only two weeks long, and hopefully things were resolved well.

**Mr Laine:** Things have been resolved. I might remind you, as John has mentioned, that we have two unions operating at Falconbridge: The first is the office, clerical and technical, whose situation we just discussed, and the second is the 1,500-man unit of the Canadian Union of Mine, Mill and Smelter Workers. These people were not on strike and they do have an obligation to report to work. Had we shut the plant down and continued to hold the plant down throughout the duration of the OCT strike, they would not have had any employment and presumably no paycheques to go along with that. There was a large majority of employees who in fact had a great deal to lose in this situation.

**The Chair:** Mr Ward, did you still want to ask a question?

**Mr Ward:** Just briefly. We received a brief from the Mine, Mill and Smelter Workers Union, Local 598, which is celebrating its 100th anniversary in 1993—quite an achievement. However, they've come out in support of labour reform. As you mention in your brief, they represent 1,500 production and maintenance employees of Falconbridge. Why do you think they support labour reform?

**Mr Keenan:** I guess it should be pretty obvious: It tilts the balance. I think, as a committee, you only have to look back to that seminal work in labour relations, the report of the Woods task force, the royal commission on labour relations in Canada in 1968, and remember the words of the eminent Professor Woods, the dean of industrial relations at McGill University, that the strength of the Canadian labour relations collective bargaining system rests upon the balance of strengths between the trade union and the employer in that the trade union employee can withdraw his labour and can offer his labour while on strike to another employer.

Of course that's what happens, as we all know. Strikes are to a large extent financed by employees who picket and receive strike pay, and employees who find alternate employment and are able to earn income during the strike.

That's on the one side of the balance. On the other side of the balance is the right of the employer to operate his facilities, and it's that balance of economic strength which occasions the result that collective agreements become settled. The tension of everybody losing a bit is enough to concentrate the mind wonderfully on getting the strike settled.

What the bill proposes is that one side will lose everything and the other side won't lose. That's going to concentrate the mind awfully quickly on: "Do we want to keep making investment decisions about staying in this province or reinvesting in this province if we cannot stay in business, if we are going to be continually faced with the possibility of a strike in which the winner is already picked out? Because he can strike us and his members can go and get alternate work if they wish, but we've got to stay closed down." You just have to look back to Dean Woods's work in that regard to know that's what made the strength of the system. That's why we have a prosperous union movement. That's why we have a prosperous country, because the system has worked well. To change that balance, I think, is a recipe for disaster.

**Mr Brown:** I was interested in your comments regarding your operations here in Sudbury, where you have, I believe, six mines and two plants. I think this committee has heard on a number of occasions from municipal electric utilities and other utilities that have a similar difficulty to yours, that being: How do we define the workplace? How do we define who has transferred from where? How do we maintain those services to the people we represent in terms of the electric utility? How do we keep the power on, so to speak? In your case, I presume you have a problem with supplying water. Do you also supply electricity to any of the area? I know Inco does.

**Mr Laine:** We don't supply power directly but the primary transmission line into the town of Falconbridge does go through our property, so we have been doing a lot of maintenance work on that, yes.

**Mr Brown:** I'm just pointing out that the difficulty you're raising here is not a difficulty that just relates directly to industrial activities but also to the municipal utilities sector, and probably others that we haven't thought of.

I think it's also important for the committee members to realize that even when not in production, mines require a substantial amount of ongoing maintenance to keep the mine afloat, so to speak.

I think Mr Offer has something.

**The Chair:** Do you want to respond to that or do you want to have Mr Offer—

**Mr Keenan:** I agree with what Mr Brown said. Mines require an enormous amount—and of course smelter furnaces have to be kept warm, or heated, I guess you'd say. You're certainly right on. This represents a major problem for us, because are those eight plants eight different places of operation? If so, we're in real trouble.

**Mr Stockwell:** I will express some concern with respect to the comments from the government side. I think this is a well documented and researched report. Whether you agree or disagree with it, it certainly begs some questions. It's disappointing that the best questions it begs from the government side are how come you had to call the police for a 10-day strike in June, and how come the Canadian Union of Mine, Mill and Smelter Workers supports it.

**Mr Hayes:** You should ask your questions and let us ask ours.

**Mr Stockwell:** I would just like to comment, Mr Chair. Those are the best two questions they come up with. I think it's rather telling about the legislation itself. As I understood it, this is a free and fair committee and one could speak without being interrupted, so I'll continue.

What is the investment fallout with respect to passing this legislation? You spoke to it very briefly, I noticed, in one of your answers. I'd like to hear you expand on what the investment fallout is for you, investment back into Ontario and maybe in the province basically as a whole.

**Mr Keenan:** I don't think we can quantify it, Mr Stockwell. An earlier speaker, when I was here, talked about the fact that investment didn't flee from Quebec because of the anti-scab legislation. Well, quite clearly you can't measure those things. A few plants did move out of Quebec. I know one very well: Menasco. But in fact, the question is, how many people made the conscious decision not to invest? You just have to look at the economy of Quebec to figure out that quite clearly, with the levels of unemployment and the levels of investment in Quebec, something's causing it. Whether some of it is the fallout from their legislation, I don't know. I can't answer that. But obviously, if we're looking for minerals to mine and other companies are looking for minerals to mine, they're all over the world. Why would we expend a lot of time and attention and energy and money looking in a hostile investment environment when there are much better ones?

I'm sure every other company feels that way. I don't know how you quantify it; it's just common sense.

1930

**Mr Stockwell:** I have expressed my concerns earlier with respect to the fact that this government chose not to do any sort of study. The previous person I asked the question of suggested that liars can figure and figures can lie, so it's academic, we wouldn't get any studies and you can get any consultant to say anything you want. I challenge the government to get any consultant to say anything it wants. I don't believe it because I don't think a consultant worth his salt would write anything that tells me this would not cost jobs.

The point I'd like to put to you is very categorical. With the decision this government is taking, what kind of study do you think the government should carry out to measure the impact of either job loss or potential job loss on not just your sector but all the sectors across the board? If Ernst and Young is right and we're going to lose 290,000 jobs, that is a frightening number. I'd just like to hear what your comments are with respect to the studies, the consultants' reports or any kind of broad-ranging review to measure the impact of this legislation.

**Mr Keenan:** I haven't read the complete studies. I've read the synopsis of a couple of them. That was the one that was done for the construction association, I believe, yes. Frankly, I think that the government itself should have asked a reputable, independent economic agency to do such a study to satisfy itself. I think the economic tools are there, the statistical measuring tools are there, and the process for conducting such a study I think is fairly well understood. You're going to get a range—worst-case, best-case scenarios—but I certainly think that in justice to the future economic health of the province and employment in the province the government should have done that.

**The Chair:** I want to thank you, gentlemen, for appearing here this evening, speaking on behalf of Falconbridge. You've played an important part in this process and we're grateful to you for having the interest in this legislation and for taking the time to be here with us this evening. Take care.

UNITED STEELWORKERS OF AMERICA,  
LOCAL 6500

**The Chair:** The next participant is the United Steelworkers of America, Local 6500. Please come forward and have a seat. We need your name and a title, if any. Tell us what you will. Please try to save the last 15 minutes for exchanges.

**Mr David Campbell:** My name is Dave Campbell. I'm the president of Local 6500, United Steelworkers of America, and I represent 5,300 unit workers at Inco Ltd here in Sudbury.

I'd like to thank you for the opportunity to make this presentation towards such a delicate topic. If I look into the past, I can recall another time in this province's labour history when such an uproar took place. That event surrounded a piece of labour legislation that was at first called Bill 139, subsequently Bill 70 and, as we heard today, Bill



208 etc. That's the bill that gives the worker the right to refuse unsafe work.

I was a fledgling trade unionist at that time. I can remember the business community taking out radio and television ads. Governments were told that there'd be a mass exodus of jobs out of Ontario because no, you can't trust them to make these decisions. After all, unions would organize work stoppages and close the province down. At least, that's what business stated. The results were just the opposite. Workplace accidents went down, fatalities were reduced and you could keep a record of such refusals in a very small ledger. I personally don't know of one organized labour stoppage under this act.

Apply the same logic to a fair Labour Relations Act and I'm sure the results would be the same. I'll go one step further and say that the current Labour Relations Act creates the adversarial atmosphere that discourages industry from entering this province. The five-year labour dispute at Shaw-Almex in Parry Sound was a direct result of replacement workers and the shabby labour laws currently in force in this province.

I'll take just two seconds on that labour dispute. This strike was not about wages; it was not about the right to organize. It was a woman who ran the company that penalized its workers on Monday if she didn't see them in church on Sunday. There are employers in this province like that and therefore labour legislation is needed to stop such things.

Organizing drives are tainted with threats, discharges, lengthy hearings and bitter resolves that are carried over for years. These become news items that are broadcast throughout the world and depict a war zone for industry in the province of Ontario.

"Why are these confrontations so bitter?" we ask. I say it's because of our current labour laws that allow them to be that way. If this government weakens the current proposed legislation, then it will in fact be discouraging industry from entering this province. That's a switch, isn't it?

If business and labour are forced to negotiate a fair and equitable agreement from an equal playing field, then everyone wins. I might go on to say "everyone except the lawyers," who may find an expedited, simplistic, quick process detrimental to their method of securing a lucrative fee schedule. Bear in mind that they have minimum fees set by their association, a group of people working together to get a better deal. My God, I'd say that sounds a lot like a labour union.

I just put this question before you, and I know it sounds a bit ridiculous, but sometimes I flare off in these things. I wonder what the legal profession would do if this government introduced legislation that allowed a person the right to scab out-of-province legal assistance at half the rate, and put in that legislation the right to disbar that lawyer with no income for the year or two it takes the labour board to rule on the case. Let them go work at McDonald's or apply for unemployment insurance. That sounds pretty stupid, and I would agree it's very stupid, yet many in this province and even some on this panel may feel quite comfortable suggesting that it's okay to subject the Ontario worker to this abuse. I'm not suggesting all

companies and corporations do that, but, my friends, there's enough on record out there to show that it in fact happens.

Workers will not bite the hand that feeds them. Show me an industry that's in trouble and I'll show you a collective agreement with concessions in it. Show me an industry that treats its workers fairly, and I'll show you an industry that will still be operating in the province of Ontario a decade from now, and quite possibly one without a union.

I was taken by surprise at the last hearings held here in Sudbury when Dr Jose Blanco, an Inco vice-president, made a presentation—and it showed up in the local media—that the proposed Labour Relations Act changes would be too confining and lead people to believe Inco couldn't live with them, similar to what was just stated by Falconbridge. As I understand it, the connotation was that they'd even look to move elsewhere if such legislation was passed.

I take offence at this because this is from a company that accepts the world's praise for its joint union and company environmental committee; this from a company that proudly proclaims its internal labour relations; this from a company that is currently developing a new quality improvement approach to doing business, one that requires equal commitment from the company, from the union and from the workers. I'm told by these same people that the Steelworkers are an asset to its members, yet for some reason they don't want you people to know that.

The western world frowns on countries that refuse to recognize the trade union movement. Poland was denounced when it made its unions illegal. The right to form a union is recognized as one of the first stepping-stones to a free and democratic society.

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With all this, many politicians, and even more business leaders, lobby at great expense to stand behind the right to form a union—as long as the laws are slanted against that possibility. That, my friend, is wrong. Make it equal, make it fair, and if it is in fact a right or privilege to organize, then it is not only proper for you to support the fair playing field; it is your duty to support these changes.

Some industries are slowly recognizing the potential of working with their labour counterparts. In fact, if industry fails, the labour unions have as much to lose as do the corporate boards; in fact, we sometimes have more. Industry can move to Mexico; we can't. Progressive industry is finding a new and exciting future by including its workers in the decision-making within the corporate structure. A cumulative effort with its employees and their labour unions are proving to be a lucrative venture for the upper management people who have vision and the ability to recognize the mistakes of the past.

I have deliberately left out some specific horror stories surrounding the current labour laws, as I'm sure you've heard and will hear all you care to listen to. I will, however, make a statement. Labour will not leave this province high and dry on its way to Mexico. Ontario workers will not sell out this wonderful place to live, nor will they in any way attempt to sabotage the industry that provides them their employment. Anyone who fears these changes

has obviously not clearly understood the ramifications of not changing this act.

On one hand, business calls on government and labour to recognize the need to modify the way we do business. We hear it all the time: Lee Iacocca's on television crying about it. A new world economic order is forcing a change in the way North Americans perform in the global economy. Industry needs highly skilled, highly trained workers who are more in tune with the economic pitfalls associated with turning a profit in today's working world.

During the 1950s and 1960s, a person could obtain employment if he had a certain body weight, a straight spine and a clean medical history. Today the criteria have changed: Grade 12 or equivalent, preferred on-the-job experience, combined with the ability to continue to grasp and learn on-the-job skills throughout his or her working life, have become the norm.

Why would industry want such a learned person to be without representation? Why does industry look to the productivity generated by the German workers, yet fail to recognize the jointness of the venture in how they got there? Ontario workers are the best in the world, but not under a dictatorship. If legislation creates a fair playing field, then both industry and labour will be forced to generate a healthy working environment. If industry is allowed to run low-wage, underskilled sweatshops, then it will in fact drag the economy of this province downward.

This legislation is not just for labour; it is for the survival of industry in this province. Industry cries: "Leave us alone. We know best how to run our business." If that's the case, why are we in the mess we're in? This predicament started long before this government was elected and most certainly long before this legislation was tabled.

If you are speaking for the people of Ontario as a whole, then you have no choice but to establish an equal playing field. Legislation forced me to wear a seatbelt whether I wanted to or not. The development of a strong, viable link between industry and its workers may require similar involvement.

I thank you for taking the time and giving me the opportunity to make this presentation. I would like to add a couple of things that aren't in the document.

We, representing 5,300 workers at Inco—at one time we had 18,000—negotiated our last two collective agreements without the need of conciliation or mediation. We did so because we are unlike other industries in the province that can bring in what we call scab labour: replacement workers.

Replacement workers are a fallacy for the mining industry. Dealing with hot metal, you couldn't run out and hire 3,000 people to come in and replace our people: Somebody would get killed. Replacement workers are not the answer for the mining industry. The reason we negotiated the collective agreement was because the withdrawal of our services was detrimental to the company as their withdrawal and closing the plant was detrimental to us.

I suggest that anybody who's afraid of an equal playing field should look to Europe. I had the opportunity to attend a conference in Geneva. I was one of two labour representatives, along with two government and two business

representatives, at a world mining conference talking about the rest of the world. If you went to a Swede or a German or a Finn and suggested the archaic labour laws that are in this province to date, they would laugh at you and they would run their governments out of the country.

It has proven to be best when the laws confront the worker and industry to work together to a common goal. Those philosophies are being taken up in Ontario and across North America. If you do something to jeopardize that, you will be slitting the throats not just of labour but all business in Ontario. You should look at it in that light—I don't think anyone has really done that—because it works in other places. The test is other countries that have as high a standard of living as ours and in some cases somewhat higher.

**The Chair:** Thank you. Mr Brown, Mr Offer, five minutes per caucus, please.

**Mr Offer:** I have a question based on the last two sentences of your presentation. Can you explain those to me? I don't understand them, and I'm just wondering if you can help me out.

**Mr Campbell:** "The development of a strong, viable link between industry and its workers?"

**Mr Offer:** The seatbelt analogy and things like that.

**Mr Campbell:** There are companies in North America that have seen the need and are sending their upper management, along with workers, to develop systems that make the company more responsible, more profitable, more competitive in the global economy. Laws that are going to deny the representation of workers in this field—workers are becoming more learned, more skilled, more trained, and with that, you can't expect someone who has acquired all of those skills to sit back and allow a situation to occur within the company without representation, because of one or two or a portion of that industry.

If you create an equal playing field that allows the worker representation, then that worker is not going to sabotage these companies, they're not going to close them down, they're not going to rip the guts out of them and have the industry collapse, only to be on the unemployment rolls, which are 13.5%, I understand, in Sudbury. Maybe when these strikers who are out on strike and go get all these other jobs—maybe when they leave them, they'll give one of them to my 20-year-old at home, because he can't find work.

**Mr Offer:** On page 7, in the area of organizing, you say, "Make it equal, make it fair," and then you go on for couple of other lines. If you've been here during the day, you've heard some discussion that, in an organizing drive, we should give to employees the right to a secret ballot where, first, they are informed as to the drive going on and what it means to them, second, it is a short period of time and, third, they are then able to cast their votes, yes or no, as they see fit.

Everyone dickers a bit about the percentage. What would you say to an amendment to this legislation that would allow a secret, free, fully informed vote, but that the trigger point would not be 40%—because there are a lot of problems that I think happen because of that—but would



be something less, something in the area of 20%? If 20% of the employees in any workforce say, "Yes, we think we might want to look at this issue of unionization," then it triggers a free, secret, informed vote. Would you be in favour of that?

**Mr Campbell:** I answer your question guardedly. I'll answer it in this fashion: The interesting way that a vote occurs is after the employee signs on the dotted line. That's a vote to be able to vote. There's been argument and I've heard from business people throughout the community that the labour unions would be just rushing into the workplace and organizing all of these groups. Labour unions don't go into workplaces unless they're asked.

**Mr Offer:** But it's not a vote to vote. If there's over 55%, a person may have signed it thinking it's a vote to vote, but in fact he finds out it's something else. That's why it triggers something lower, so that there isn't this—

**Mr Campbell:** If that's the case and you also want to put in the amendment that the trade union movement can walk into any company it wants without being invited and say, "We want to have a vote," then maybe your situation would warrant, but that isn't the situation. Trade unions are formed when workers request representation, and they proceed through the avenues to find a union that's in their—I hate to use the word "jurisdiction," but the UFCW has food stores, the Steelworkers have mines etc.

The ramifications of what you're saying are interesting, but no one is suggesting the concept change that a group of employees request a union to come in and test the waters to see if a vote is required; the testing is still that little signed document, on the line. That's where everybody gets in trouble now, because when you sign on the line, three years later when you've been forced out of industry and try to get a hearing with the labour board and it doesn't happen—my scenario about lawyers was explicitly put in that context to cover such an event. I don't think the issue here is what you're presenting. The fact is, can a group of workers, without fear of being chastised, request the establishment of a union within their workplace?

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**Mr Villeneuve:** I have a couple of short questions. Thank you for being here, Mr Campbell. I gather you've been able to settle the last two contracts without mediation and with some bargaining. Worst scenario: If indeed you were forced to go to arbitration, what would your feeling be about that?

**Mr Campbell:** To go to arbitration?

**Mr Villeneuve:** I gather the Steelworkers are some of the better-paid people in the area?

**Mr Campbell:** We're paid a fair wage for what we do, yes. We signed a collective agreement without a strike.

**Mr Villeneuve:** What do you feel going to arbitration would do to you if indeed it were forced on you?

**Mr Campbell:** I don't like the arbitration process. With the arbitration process, you're leaving the hands of 5,000 in the feeling of one. We have arbitration set up within our collective agreement. Arbitrators have been known to say: "It's your turn to win; I'll give you this one.

I'll give the union the one thereafter." I have a lot of mistrust of the arbitration process.

**Mr Villeneuve:** I didn't have the opportunity of asking the representatives from Falconbridge here ahead of you, but they seem to be of the same opinion as you are. There is a great deal of apprehension when it comes to binding arbitration. I come from an area that's very economically depressed, such as this area is, and arbitration brought firefighters a 13.25% retroactive increase; the city of Cornwall is just wondering how it will be able to handle it.

**Mr Campbell:** I'm going to set you back a notch. As a trade unionist, the day has come and it has happened and it may happen again that a 13.5% increase might be detrimental to the workers. It may very well be the union stating that there are avenues of pension incentives to reduce the workforce and improvement in benefits rather than wages. I'm not suggesting that's going to be a bargaining position, but it is. To go to an arbitrator who might say, "Here, you got 20%," and say: "Hell, we weren't looking for 20%. We were looking for security to see that we have a job here 20 years from now."

**Mr Villeneuve:** It's refreshing to hear that.

**Mr Campbell:** Listen to labour throughout the province; you'll hear it quite a bit.

**Mr Villeneuve:** We heard a lot. Yes, we have. Thank you.

**Mr Ward:** Mr Campbell, I'd like to thank you for your presentation. I think you're a fine spokesperson for Local 6500 of the Steelworkers, being president. We've had some discussion centred on the aspect of a secret ballot vote for certification. The critics of the idea of a secret ballot explained to us that it's very difficult to eliminate intimidation that could occur from an employer: putting a pro-union employee into a dirty job, firings, discipline, that it's very difficult to eliminate intimidation totally. Do you feel it's possible?

**Mr Campbell:** Totally? We're dealing with human beings, and I can't answer that. I like your idea of a vote on all these issues. Do you think you could get us one on the GST and the free trade agreement? I guess what I'm trying to say that we are all human beings and we run our particular shows in those fashions, and sometimes we make mistakes. Even trade unionists do, honest to God; not many, but once in a while.

What I'm suggesting is that if you put the playing field so that it's plain and simple and charismatic, there it is. "Don't candybutt around it. Here's what it takes, it takes this percentage and that's all that you're going to do. Now then, get off and negotiate your collective agreements. We're not going to let you ship your stuff off to Mexico and the United States and all the rest of the things that go with it."

I have great difficulty hearing the complaints. I have a lot of friends in this community. I sit on hospital boards. I am good friends with the president of the chamber of commerce. The lady is an impeccable person. I enjoy her. We argue about this constantly. But what bothers me the most is that they lead people to believe that we're going to have an exodus of people and business from this province. Hell,

look around. They were long gone before you guys ever thought of this. I go through southern Ontario and it's amazing the factories that are closed and the shops that are going to. The labour legislation? Hell, the NDP getting elected was a fallacy two years before half of them closed.

**Mr Ward:** If I could focus on the issue of the replacement worker restrictions, when you look at Inco, if Local 6500 makes the decision to go on strike and withhold its labour, the membership, Inco shuts down. There's no use of replacement workers.

**Mr Campbell:** I think because of the nature of the industry.

**Mr Ward:** The critics of the replacement worker restrictions say that it will put too much power in the hands of the employees, that they'll all want to walk out on strike and make outrageous demands and force employers to capitulate to their demands. Yet you've had that power at Inco since its inception. Inco's still here. Local 6500 is still here. Without giving away any trade secrets, how do you approach bargaining? What factors play into your membership to stake out your bargaining position?

**Mr Campbell:** Without any trade secrets, I wish the entire industry and labour throughout the province would sit and open the books and find out where the industry you're negotiating with is. If there's reason for a fair and equitable collective agreement with 13 per cent increases in it, then by all means it should be provided.

But if you're in the position, which we all may be in very shortly, in which the industry is going to maybe falter in a world depression, not just a North American one, then the collective agreement should be negotiated on the basis of the ability of the employer to pay. There's not a union nor a group of employees that I know of or you can tell me of today that would go negotiate a \$3-an-hour, across-the-board wage increase if they knew on Friday the plant would close and they'd all be out of work.

To suggest those things is utterly ludicrous and ridiculous. I suggest to you that Inco, after our eight-and-a-half-month strike in 1978, which was the most bitter, disheartening event that a group of workers and a company could go through, saw the light, that this didn't work, and sat down and opened the books. Now there are some people on your panel who don't want business to open its books to its employees, so you have to force it. There are businesses that feel that the employees don't have the smarts to really want the wellbeing of the company they work for, so you have to force it.

**Ms Murdock:** Thank you very much for coming, David. I appreciate it. As always, you did well. One of the things that is rarely mentioned by very many of the groups, either labour or management, is the involvement of themselves within the community. I know the Steelworkers in particular in this riding have been very active in terms of community things. I think everybody's seeing each other as a separate entity that has no other relationship to the rest of the community. I think it's important and I'd like you tell us what the Steelworkers have done.

**Mr Campbell:** What we've done?

**Ms Murdock:** What you're doing.

**Mr Campbell:** You gave me only a half-hour.

**Ms Murdock:** No, you don't even have that long. You have about a minute.

**Mr Campbell:** The cancer treatment centre in Sudbury probably is one thing we're very proud of. It probably wouldn't be here if it wasn't for the Ron MacDonalds and the John Gagnons. We're going to apply that same scenario of fighting you for the ethanol plant that we want to make damn sure that you don't turn down. We need that.

On record, we sit on the hospital boards. Their council doesn't make moves without including us and having us speak and make our presentations. I'm sure Dr Blanco, who is going to come up here when I'm finished, will have some arguments to the contrary, and tomorrow we will get into those discussions on the telephone. That's just the way we do business and that's fine, but there isn't a major event that takes place in this community that the Steelworkers aren't involved with, whether that be the establishment of a French college, whether that be the enlargement of Laurentian University or whether it be sitting on the board of Cambrian College.

We participate in all walks, and it's got to the point where this city doesn't make a move without us, not because they're afraid of us but because of the professionalism that accompanies our being on those boards and working with business. Slowly, slowly, maybe by the time I drop dead, the majority of business people in this town actually are very happy that some of us are around, unlike those who are putting up these billboards that just would make one sick.

**The Chair:** Thank you, Mr Campbell, for being here this evening on behalf of the United Steelworkers of America, Local 6500. You've obviously provoked a whole lot of interest and response from the members of the committee. You've made a valuable contribution. You speak for a significant constituency here, and we're grateful to you and to your membership for your participation in this process. Take care.

**Mr Campbell:** Thank you.

2000

#### INCO LTD, ONTARIO DIVISION

**The Chair:** The next participant is Inco, Ontario division. People, please seat yourselves at a microphone and tell us your names and your titles, if any. We've got your written submission. We've got the submission made in January 1992. We've also got the executive summary, which is wonderfully concise and would permit a great deal of discussion which, as you can see, is oftentimes the more valuable part of this process because everybody is going to read the full submission. Go ahead, gentlemen.

**Mr Don Sheehan:** I'm Don Sheehan, manager of employee relations in our Sudbury operations.

**Dr Jose Blanco:** I'm Jose Blanco. I am the vice-president of human resources and administration in the Ontario division.

First of all, I thank you for inviting us to address your committee. We did, as my colleague Dave Campbell indicated, make a submission in January. I appeared before the



Minister of Labour to present our case. The transition from the proposal to the tabled legislation indicates that some of the issues that we raised were addressed; however, a whole host of new issues has also come forward.

We have based our submission, as our summary indicates, on the premise that the present government will pass amendments to the Labour Relations Act which intend to shift the balance of power towards unions.

After I listened to Dave Campbell, I thought it would be appropriate to indicate that he explained in very eloquent terms and over an extended period of time the significance of what he called a level playing field, which he twice indicated we had been working with. The comments, the suggestions and the recommendations that we are putting forward, we put forward in a positive spirit. We want to be constructive, and those are directed at maintaining a practical and workable balance of power, a level field, between management and labour.

We want to reduce the potential increased confrontation between companies and unions. Again, it is important to remember, in the same context, that we are a mature industry, that we are anchored by our mines and smelters and that a move to Mexico is certainly not in the cards for us.

We are interested in reducing the potential damage to companies' competitive positions. We want to reduce the negative repercussions that can arise from actions taken by a labour board that has been granted very large powers. As well, we want to preserve something that you've heard over the last half-hour and that has much to do with the democratic system of collective bargaining that we have arrived at over the last, I guess, three contracts; it will be 12 years.

Inco has carried out a close reading of the tabled amendments. We have delved at length into the practical and the legal workings of the proposals, and we are distressed. We're distressed about the possibility that the amendments now before the House may be passed in their present form and they may tilt what has already been described as the level playing field.

We believe that our submission provides concrete suggestions for improving the workability and the acceptability of the act. We recommend a number of changes to the legislation. The details and the reasons for those changes are contained in our submission. I propose to give you a brief summary of highlights and reserve the time for discussion.

We believe that the purpose of "improvement" should be deleted from the purpose clause. Collective bargaining will be put at risk by creating a legally enforceable presumption that negotiation means improvement in terms and conditions of employment. That need not be the case.

The principles of workplace cooperation and participation, which are the cornerstone of our, we hope, very long term survival in this region, should be encouraged by the Ministry of Labour, but we do not believe that they can be legislated.

The purpose clause, in modified form, should be placed in the preamble to the act and should not be broadly enforceable as a provision.

In terms of replacement workers, the act should clearly provide that an employer can use both outside contractors and persons at its other facilities to perform bargaining unit work during a strike at locations away from the struck operation. The act should not provide that management and employees can refuse to perform bargaining unit work during a strike, and the use of striking employees as replacement workers, if requested by the union, should be changed to permissive from mandatory.

As you will see from the submission, we have various locals of the United Steelworkers, in Port Colborne, in Shebandowan, the largest one, Local 6500; we have the OCT, office, clerical and technical, which is a recently formed union, and Inco—not the Ontario division, distinct from that one—has CMS, Continuous Mining Systems.

In combining bargaining units, we believe that the act should allow combination of bargaining units at the same geographic location only in cases where there is a common employer, the work is the same and the employees have the same community of interest. The act should allow combination of bargaining units in separate geographic locations only in cases where there is a common employer, the work is the same, the employees have the same community of interest, the different locations are in the same municipal region for technical reasons, and the board is satisfied that there are no economic or competitive reasons why the parties would not have bargained the same collective agreement at both locations.

We have normally dealt with both 6200, Port Colborne, and 6500, our local union in Sudbury. They do have the same employer but different areas and different requirements. We believe that to not recognize that would interfere with the proper functioning of the cooperative spirit we believe is essential.

The act should allow combination of bargaining units only if a majority of employees in each unit have signified approval by way of secret ballot.

In terms of security guards, the act should define security guards as persons who protect the property of an employer and should provide that the same union cannot represent both security guards and other employees working at the same location.

We have also proposed changes to the sections of the legislation dealing with picketing and the reinstatement of workers following a strike. The details of our reasoning are discussed in our submission.

We believe that this submission provides concrete suggestions for improving the workability and acceptability of the revised act. Now we will welcome your questions.

2010

**Mr Villeneuve:** Thank you very much, gentlemen, for your presentation. I think you make some very apropos suggestions here. Whether the government sees fit—

During a strike, legal or otherwise, should the plant be able to continue with outside workers? Could you comment on that, please?

**Dr Blanco:** I have not understood the first part of your statement. Consequently I would be very careful before I answer. Would you mind restating it?

**Mr Villeneuve:** If indeed we have a situation where there is a lockout of employees at the plant, it was suggested then that the plant not be allowed to proceed with operation with outside workers. But if it was a strike, legal or otherwise, then the plant should be allowed to continue with outside workers.

**Dr Blanco:** I should reply to that with some caution. The specific issue we have focused on is our own. We believe we are representative of large industries, well-established and mature industries, not very mobile. If our production workers were not available, it is not in the cards that we would be operating. I believe that was stated earlier by David Campbell. There is the associated risk with operating either mining or smelting without the appropriate skills. It is a question, therefore, that I cannot see applying to us.

**Mr Villeneuve:** So in your case you're saying you feel the playing field is quite level now and Bill 40, because of the particular danger within your operation, will slant it very much towards the union. Do I hear you right?

**Dr Blanco:** Yes. I believe the playing field is essentially level now and we would like to protect it the way it is or minimize the risk of changing it in ways that might provide us all with negative results.

**Mr Villeneuve:** Because certainly not anyone off the street can go and operate at the Inco plant. I can appreciate that. Thank you for your suggestions; they're quite good.

**Mr Hayes:** Thank you, Dr Blanco, for your presentation. I notice in your submission, on page 26 you say, "The legislation should not take away the existing fundamental right of a member of a striking bargaining unit to refuse to engage in the strike and come to work." Then you say we should "remove the provision giving non-striking employees the right to refuse to do bargaining unit work during a strike."

We've heard this from other groups, especially the chambers of commerce, that workers should have the choice to stay on the job or go in to work, not participate in the picket line or strike; that they should have the choice to do that during a legal strike. Obviously you agree with that or you wouldn't have it in your presentation.

I have a question. After a vote is taken to accept an agreement, and if it is a very close vote, where it's 55% in favour and 45% opposed, it's very close, and there are a lot of questions, a lot of unhappy workers, do you feel those same workers in the lower number should have the right to choose to stay out on strike?

**Dr Blanco:** I believe that right should not be removed. I believe the situation should be acted upon on its own merits. But with respect to page 26, the recommendation we make has to do with the non-striking employees, not employees who may have been on strike.

**Mr Hayes:** You're saying that if there's a strike, those employees didn't go out with the rest of the people in their bargaining unit.

**Dr Blanco:** For example, if the production workers decided to go on strike, we still have to sustain the downturn of the operation; we have to close the system.

**Mr Hayes:** Do you feel this legislation would change that? To my knowledge, it wouldn't. You have those in a lot of collective agreements now.

**Dr Blanco:** There is in fact a statement that would suggest to us, could be interpreted, as precisely removing that right. Perhaps we have misread the particulars, but we express the concern because that's the way we interpreted it.

**Mr Hayes:** That would come under the part where someone's health and safety would be in danger, I believe, and it would allow that to happen.

**Dr Blanco:** It is on page 25 in the fourth paragraph. It has to do with the legal definition of the word "person." Perhaps our interpretation is not quite complete, but we have reason to be concerned that it could be so.

**Ms Murdock:** That certainly is not the intent of that section. In fact, in your operation in particular—each operation in each industry sector is different, we realize. But as was pointed out before, I think by Falconbridge, the smelter operation obviously can't get cold. It's a very dangerous situation, so you'd be able to get exempted under section 73.2. I think it's that section; this is relying on memory, but I think under that section. We'll check that and I'll make sure you find out, Dr Blanco. I want to thank you.

Anyway, my question is on the summary, the first part on replacement workers, and also on number 4, security guards. First just a clarification on the first part under replacement workers, and depending on your answer, it will determine what my question is. When I read, "an employer can use both outside contractors and persons at its other facilities to perform bargaining unit work during a strike at locations away from the struck operation," I'm reading that as outside contractors and persons who work at another site outside during a strike.

**Dr Blanco:** Right.

**Ms Murdock:** Then I interpreted it correctly. Right now Bill 40 does not prevent that from happening, so that is done; it's not one of your problems.

**Dr Blanco:** You mean as it is worded right now?

**Ms Murdock:** Yes.

**Dr Blanco:** I would have to go to the details within the submission, but the reason we have worded these issues as we have is because they raise concerns with us that we thought we should share with you.

**Ms Murdock:** Actually, the reverse or the corollary of that very point has been raised by the labour side, that they don't like that aspect of being able to use outside contractors or move your work to another location and use people on another site. We'll doublecheck that.

The other thing is on security guards. I don't know if you're aware that in every other jurisdiction and in every province of Canada, federally as well, security guards are allowed to join a union of their choice, not restricted to security guards alone. I believe in one of the eastern provinces, if an employer feels there is a conflict of interest he can appeal to the board and there's an expedited process to determine whether or not there is a conflict. But in all other jurisdictions that exists, so I'm just wondering why it is that you see a real problem there.



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**Dr Blanco:** There are a couple of reasons. One of them is a redefinition. There is a shift in the definition of "security guard" in the act from "a person who protects the property of the employer" to one who "monitors" other employees. As I understand it, the legislation does not recognize monitoring other employees as automatically giving rise to a conflict of interest; therefore, there would be potentially a significant question should the particular circumstances get us into that position. So it matters that those definitions be as clear as possible.

Remember, from the beginning we have stated that what we want to do is make sure we minimize the opportunity for things to go wrong. We believe we have a level playing field that we have worked very hard at developing jointly with the Steelworkers. Our collective bargaining agreements represent the outcome of detailed discussions, they are basically democratic and reasonable, and we are concerned. In fact, when we look at it in the overall scope, we are distressed that the field could be tilted.

**The Acting Chair:** Ms Murdock, one short question.

**Ms Murdock:** I just wanted to give you the opportunity to tell all the things you've done in this community too, as has been presented by both Dave Campbell and yourself, Dr Blanco. Inco has been extremely important in this city. I remember well the days of Mayor Joe Fabbro, when Inco was the only job in town, basically. Things have changed, but your presence is still quite high and your involvement in the community is also very important. I know you and Steel work together on a lot of different things.

**Dr Blanco:** We do, as a matter of fact.

**Ms Murdock:** I mean other than work.

**Dr Blanco:** Yes, not only at work but outside. We do serve the community in many ways and we are present, much as they are, everywhere. I think it's fair to say we are a significant contributor to the fabric of this community, jointly with the Steelworkers.

**Ms Murdock:** I just hope the price of nickel goes up.

**Dr Blanco:** So do we.

**Ms Murdock:** Then the definition of "ore" will change accordingly. Thank you.

**Mr Offer:** Thank you for your presentation. As I've been listening to the questions and answers, I've also been going through your more in-depth brief. I want to congratulate you, because it highlights some of the concerns you have, but not only that, it doesn't stop there: It provides us with some concrete, positive suggestions as to how those concerns may be addressed. So I want to thank you for that.

I'm running all over the place with this, because there are so many questions to ask and such a time to do so.

I want to talk to you about the purpose clause. We haven't really discussed that too often in the committee today, but I think it's a very important aspect of the legislation. When I first got involved here, somebody said to me that the worst thing you can do in any legislation is read provisions singularly, that they all have to be combined

with one another to get their true impact. That was very good advice given to me at a very early point in time.

I want to talk to you about that part of the purpose clause which I find, for myself, very unsettling. It's unsettling to me because I think it flies in the face of collective bargaining. That's my opinion, and we might be debating that later on in the day; I have no doubt we will.

This purpose clause flies in the face of good collective bargaining between union and management, that is, that part which says one of the purposes of the act is for "improving" terms and conditions of employment. Of course, that takes out of the fray the realities of the day, where there may be some cases—and we just heard that in the past presentation. I think the gentleman said we should be listening to some other labour representatives saying: "Wait, we can't ask for that amount of money. There have been changes in the workforce, there have been changes in areas." However, I don't know that they can do that now, because they're going to be mandated that every agreement is going to have to somehow encompass improving terms and conditions. I'm wondering if you can share with us your thoughts as to what that means to your company.

**Dr Blanco:** I think you have expressed it better than I could have. The notion that a settlement can only be arrived at if there is an improvement is not one we feel comfortable with. First of all, it is very difficult to define "improvement." It would be almost impossible to come to agreement as to what it means. The balance should be on the basis of the reality within which both groups have to settle. The relevant factors have to be defined very specifically in terms of the specific circumstances. To do otherwise, to create the presumption that it is possible or inevitable to arrive at improvement, would merely open, I believe, like yourself, a door to non-settlement, great difficulty and a large misunderstanding.

We're very concerned about having that as part of the act, not necessarily the complete preamble but specifics of that preamble, particularly because it is included in the act, not a preamble to the act. We need the right environment for a collective bargaining agreement to succeed.

**Mr Offer:** I think I just have time for a few more questions.

Interjection.

**Mr Offer:** A question. I heard the Chair.

I think there was some discussion between you and Ms Murdock, the parliamentary assistant to the Minister of Labour, in the area of replacement workers. I may have just not heard it correctly, but I think one of the areas you were talking about was the process in the replacement worker provision for exemption in order to be able to hire other individuals, if that be the case. I'm wondering if you can expand upon that.

I'm sorry for the question I asked. I know it was rambling, and that's being charitable for me.

**Dr Blanco:** The question is appropriate.

**Mr Offer:** But I'll tell you why, because there is, of course, that provision where there's the permitted use of specified replacement workers. One of the concerns I have had, if not from day one certainly from day two, is that

there's no process in this legislation as to how it kicks in. There is absolutely no process as to request and time-limited framework for response, and I think this has to really be sharpened up. It just doesn't provide any process. In fact, I must say I think we've heard that same concern from CUPE also.

**Dr Blanco:** On a fundamental basis, we of course would oppose any legislation that has the effect of unduly restricting the right of a company to operate beyond the current provisions, but we have taken a look at the legislation from the point of view of how it would affect us. We have taken the pragmatic approach that if we can explain to you what it would do to a well-established union and company in the middle of Ontario after many years, perhaps our arguments would be more relevant than if we attempted to provide you with a very general case. I know it still leaves you with some problems, but let me quote from our first presentation with regard to replacement workers:

"It is important that there be no doubt about Inco's position with respect to operating during a strike. In the event of a strike by members of Local 6500 of the United Steelworkers, the company will, as in the past, stop normal operations."

Consequently the requirement for a complex definition for us in those very specific terms does not appear; however, from the point of view of legal principle, we have concerns.

**The Chair:** I want to say thank you to both of you for appearing here on behalf of Inco and contributing to this process. Your participation has been welcome and is obviously an important part of this committee's work, so we are grateful to you and to Inco as a company. Thank you, sir.

The next participant is the Porcupine and District Labour Council, which may be delayed by a few minutes.

Is there any committee business, any issues by committee members? We'll recess until 20 minutes to 9.

The committee recessed at 2032.

2040

**The Chair:** It's 8:40. The Porcupine and District Labour Council was scheduled to make a presentation at 8:30. There's no indication that they're here. The clerk has looked for them, and he's not received any word that they'd be coming.

I want to say thank you to the committee members for their cooperation during the course of today, and of course to the staff people who help make this committee work as well as it does. On my left is Avrum Fenson, who's one of the two research officers assigned to us. On my extreme right is Pat Girouard, who works with Hansard. To her left is David Augustyn from Thorold, more specifically Port Robinson Road. He's a student at the University of Waterloo doing his co-op with the Clerk's office. Todd Decker is the clerk of the committee, and the interpreters are Sylvie Soth, Daphne Beauroy and Delia Roy Ibarra. The people who work in the electronics are Dimitrios Petselis and John Palmer, and Miss Peggy Mongean has single-handedly provided us with coffee and serviced us here on behalf of the Northbury Hotel. I say to all of you, thank you. Thank you, Ms Murdock, and extend our appreciation to Sudbury for its hospitality, and thank you to those people who expressed an interest in the committee and its process and who remained throughout the day to watch the committee doing its work.

Subject to anybody raising any issues, we are adjourned till tomorrow afternoon in Ottawa. Thank you, people.

The committee adjourned at 2042.









## CONTENTS

Monday 24 August 1992

<b>Labour Relations and Employment Statute Law Amendment Act, 1992, Bill 40</b> . . . . .	R-735
North Bay and District Chamber of Commerce . . . . .	R-735
Jeff Rogerson, chairman, public affairs committee	
Barry Spilchuk, president	
North Bay and District Labour Council . . . . .	R-739
Art Campbell, president	
Sault Ste Marie Chamber of Commerce . . . . .	R-743
Liisa Peer, president	
David Cameletti, member	
Sault Ste Marie and District Labour Council . . . . .	R-748
Bob Richards, president	
Elaine Della-Mattia, staff representative, Communications Workers of America, Local 746	
Sudbury and District Chamber of Commerce . . . . .	R-752
Alan Arkilander, president	
Sudbury and District Labour Council . . . . .	R-756
Barry Tooley, president	
Barry Fraser, staff representative, Canadian Labour Council	
Algoma Manitoulin and District Labour Council . . . . .	R-761
Norman J. Garvie, president	
Barry Fraser, staff representative, Canadian Labour Council	
Canadian Union of Public Employees . . . . .	R-765
Ron Moreau, national representative	
Falconbridge Ltd . . . . .	R-769
Richard Laine, director, human resources and public affairs, Sudbury operations	
John Pappone, manager, employee relations, Kidd Creek division	
John Keenan, vice-president, human resources	
United Steelworkers of America, Local 6500 . . . . .	R-773
David R. Campbell, president	
Inco Ltd, Ontario division . . . . .	R-777
Don Sheehan, manager, employee relations, Sudbury operations	
Dr Jose A. Blanco, vice-president, human resources and administration	

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**\*In attendance / présents**

**Clerk pro tem / Greffier par intérim:** Decker, Todd

**Staff / Personnel:** Fenson, Avrum, research officer, Legislative Research Service



R-27

R-27

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## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Tuesday 25 August 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Mardi 25 août 1992

### Standing committee on resources development

Labour Relations and  
Employment Statute Law  
Amendment Act, 1992

### Comité permanent du développement des ressources

Loi de 1992 modifiant des lois  
en ce qui a trait aux relations  
de travail et à l'emploi



Chair: Peter Kormos  
Clerk pro tem: Todd Decker

Président : Peter Kormos  
Greffier par intérim : Todd Decker

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## **Table of Contents**

Table of Contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

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La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday 25 August 1992

The committee met at 1332 in the Hilton, Ottawa.

### LABOUR RELATIONS AND EMPLOYMENT STATUTE LAW AMENDMENT ACT, 1992

### LOI DE 1992 MODIFIANT DES LOIS EN CE QUI A TRAIT AUX RELATIONS DE TRAVAIL ET À L'EMPLOI

Consideration of Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment / Loi modifiant certaines lois en ce qui a trait à la négociation collective et à l'emploi.

#### OTTAWA AND DISTRICT LABOUR COUNCIL

**The Chair (Mr Peter Kormos):** It's 1:30 and we're going to resume these hearings in Ottawa. The first participant is the Ottawa and District Labour Council. Would those people please come forward and have a seat. Your written submissions have been filed as an exhibit and they form part of the record. Please try to save the last half of the half-hour for questions and exchanges. Go ahead, gentlemen, please.

**Mr Mohamad Alsadi:** My name is Mohamad Alsadi. I'm with the Ottawa and District Labour Council. I would like to thank this committee for giving us the opportunity to speak to you today about a matter that we consider very important to the workers in this province.

We submitted in January a brief to the Minister of Labour, and I did not see any reason why we should submit a formal brief this time. I did give you notes about my submission to you today, but I don't think I'm going to go with them. I'm just going to speak to you from my heart about how I feel about the process, the way the opposition to this legislation has been conducting their affairs, the way they've been attacking this legislation and the way they've been hurting the economy in this province because of the negative campaign they've put out for the last two years.

Early in February 1992 the Ottawa-Carleton region human resources and legal department put out a recommendation opposed to almost 90% of the discussion paper. We had to lobby politicians on a daily basis. We had to spend lots of time explaining to them that most of the recommendations will have absolutely nothing to do with regional government, ie, the issue of the anti-scab legislation wouldn't have any effect on them whatsoever because of the fact that they don't have the right in the collective agreement to strike. But they're still opposed to the anti-scab legislation just because of the fact that they want to oppose the recommendation to reform the Labour Relations Act.

Mr Chairman, I'm quite upset at the process. I'm quite upset about the fact that we spent almost two years dealing with this damn legislation, and I'm sick and tired of it. I

don't think it's fair to the workers in this province for many reasons. I think the Conservatives and the Liberals should have had the guts to do that since 1950 until now. If they really sincerely and honestly believe in collective bargaining, believe in the union's right to organize, believe in people having the right not to be discharged for no just cause, believe in organizing the people who want to be organized, then I think they should stand up and say it, unless privately they're saying that workers shouldn't be unionized and "Let's screw the union if we can."

The campaign that we've seen out there for the last two years was a campaign that hurt this province. It did not help the business community, it did not help the government, it did not help the Conservatives or the Liberals. I think they spent enough money on billboards to create 10,000 jobs in Ontario, and I think this is sick. I think they should have put their time and energy to look at ways to work on the economy in this province. One of the business leaders from the chamber of commerce suggested to a press conference early in January when the minister was around that investors are better off to go to Kuwait or Iraq. That's a businessman who's supposed to be smart.

I just received a fax from the Nepean Chamber of Commerce a couple of days ago. They didn't send it to me, but somebody did. They sent a notice to their people, to their employees, telling them, "the Labour Relations Act will prevent you from your democratic right to choose a union." Isn't that special? They're talking about democracy. I think they're far away from democracy. I can't see the chamber of commerce allowing their employees to be members of the chamber of commerce or the better business coalition or these big fat-pocket lawyers who have been hired to do the job for them.

The scare tactic they've been using all over the place is about the fact that there will be a loss of 295,000 jobs. I don't know where the hell they get these figures. I think one of them was sleeping at night and had a nice little dream, and then it turned to a nightmare; then he found out it's going to be a 295,000 job loss in Ontario and he said: "Okay, let's put it in the paper. You know the media; they wouldn't have any problem printing anything for our buddies in the business community."

My problem with the whole thing is the fact that the Liberals and the Conservatives are not really concerned much about the Labour Relations Act changes. I think they see blood with this legislation. I think they see it as the only way to go after the government in Ontario, and I think this is not fair to the workers in this province. I think they should try to realize and understand that there are flaws, there is a problem in this legislation.

What are you saying to me: that the big food chains like McDonald's, IGA and all these people, are going to move to Bangladesh to operate because of labour law reform? Are



you saying to me that labour law reform will mean the economy is going to be dead?

1340

I'll tell you right now, and I'm speaking to our friends from the Conservatives, I think you should call your buddy Brian Mulroney and talk to him about free trade. I think this is what's killing the economy. Talk to him about the interest rates, talk to him about the other issues that are killing this country, like the GST. Labour law reform? What is so bad about the recommendation to allow people to organize if they can? Ninety-four per cent of the cleaners in this country cannot organize. Is that fair? Women who are unionized are earning 26% more than women who are not unionized. You have a problem with that? I don't understand what all the fuss is about.

Let's talk about part-time workers. Let's talk about security guards. Let's talk about the anti-scab legislation. Wow, anti-scab legislation. That's a very big step. They've done it in Quebec. In 1977, after a couple of workers got shot in a strike, the Parti québécois government decided: "Well, you know, enough is enough. We will have legislation to prevent the employer from hiring scabs."

You may tell me, "Well, give us examples of why the anti-scab legislation is important." I'm going to give the example to our friends from the Liberals and the Conservatives and the big business people: Eaton's. Mr Jordan, remember Eaton's? Mr McGuinty, remember Eaton's? I think everybody in this room remembers Eaton's. People decided they wanted a union, sir. They said, "We'd like to have a union." They signed cards, the majority of them. We had certification. Life is good; everything is going fine.

The employer said: "Well, hey, this Labour Relations Act is so weak that I could do all kinds of things if I wanted. First of all, they can't come inside my stores, because I'm inside a big shopping centre. That's a neat idea. The other thing is, well, let's just fire everybody and replace them with workers. The law will allow me to do that." So he did it. We had to have our picket signs on the highway, 200,000 km away from his shopping centre.

The Conservatives and the Liberals always say in public, "We agree and believe in collective bargaining." I don't know what they say in private, but in public this is what they're saying. I honestly think the government of Ontario made one mistake. I think they should have bought tickets for all the Conservatives and Liberals and sent them to Europe for vacation. Let them work one day to look at what's going on in New Zealand, in Belgium: 54% of the people in Belgium are unionized, the economy is great and the relationship between employers and employees is very good. That says something to me. The same thing in New Zealand: 83% are unionized and the economy is very healthy.

Why do we always have to take the attitude that the union is coming to take over from us? Why do we always say, "It's impossible to have a good relationship between management and labour"? Why aren't my friends from the Liberals not talking about doing certain things to help minority people, women, part-time workers, the disabled? This legislation is not talking about people who work in big steel plants or auto industries. They already have all the

benefits they require. This legislation is talking about the immigrant women who work as cleaners and whose employer could come in at any time with a security guard and walk them out of the job because somebody else gave him a better contract. Is that fair? I mean, come on now. Put on the side your political agenda and talk in a reasonable manner. Tell me that this is fair, and if you tell me this is fair, then I think I am in the wrong country, and I am sorry to say that.

Now there was a major campaign out there all over the province. We saw the big billboard in Toronto about Bob Rae. It was with Marx and talking about the Cold War. I'm just disappointed that these people don't know that the Cold War is over. There is no more Berlin Wall. It's gone. Try to find some other ways to go after the NDP government. Maybe you shouldn't use the workers to do that.

The consultation process—I have to go back to it—took a long time. I think it's enough of it and I think it's only fair to say that the negative campaign cost Ontario some investments. A recent public poll suggested the majority of Ontarians believe the negative business campaign has had a negative effect on the investment.

We have also become aware in recent years that flaws in current labour laws harm some of the more disadvantaged groups in our society more than others. As historian Desmond Morton suggested in an article to the Ottawa Citizen late last summer, "If the right to join a union and conduct free collective bargaining is still accepted in Ontario, and no party has denied it publicly, the act must change to fit a rapidly restructuring workforce."

There are changes in industry. Women are doing some different work than they were doing 10 or 16 years ago. The fact that we're dealing with people who are cashiers, accountants and some other people gives you the indication that you should look at the situation very carefully.

I know you're looking at your watch, Mr Chairman. I'm almost finished. I just want to get a little bit to the technical aspect of the recommendation.

There are a million people in this province who want to be unionized and they can't be unionized because of the flaws in the Labour Relations Act. I think somebody should look very seriously at that. Two out of five factory workers in the province belong to a union, but only one in six retail workers is unionized, and I think this is sick.

The people who work in these sectors are more likely these days to be named Abdullahi or Alberto Moravia or Omatandi than McGuinty, Conway or Jordan, for example. I think, very seriously, you should try to understand that in most of the service sectors there are lots of women and immigrants and disabled people who are telling you: "Recognize us. Recognize us, for God's sake, and look at our situation and allow us to have a union if we choose to do so."

Finally, I just want to say it's 1992; it's not 1892. I think the business community should smarten up. I think it should realize that there is lots of room to try to work together with the unions, and instead of all this backslashing and all this propaganda out there, you should definitely work to have a better relationship with unions and with your employers.

**The Chair:** Thank you, sir. Three minutes per caucus.  
1350

**Mr Steven Offer (Mississauga North):** I listened very closely to your presentation, Mr Alsadi, and let me indicate a couple of things by way of comment before I get into my question. The first is, I don't think you should have to worry about this bill becoming the law. As you know, we are in a time allocation motion by the government. The government has set forth an agenda that there shall only be five weeks of hearings, there will only be two weeks of clause-by-clause, there will only be two days of debate on third reading, and this bill is going to be law by the government by Thanksgiving, notwithstanding any of the concerns we have heard in our public hearing debate.

**Mr Alsadi:** And you're going to support it, of course.

**Mr Offer:** With respect to our concerns—and I want to talk about the matters which you brought forward—as we are entering now our fourth week of public hearings, this is not just what one would characterize as business on one side and labour on the other. We're hearing concerns from school boards. We're hearing concerns about the legislation from local hydro services. We've heard concerns about the legislation from the Ontario Association of Children's Aid Societies. They also have concerns about the legislation and what impact it will have on them.

My question to you is this: I agree. If somebody wants to join a union, he should be able to join a union. We have heard some of the problems that arise in the area of coercion and intimidation, all of those things, which you may be very well aware of. My suggestion to you is: If someone wants to join a union, if those men and women in the place want to be part of a union, would you support a free, secret ballot where the workers—you're looking back. You must have been told that I might be asking the question, but that's okay.

**Mr Alsadi:** That's your famous question. We're going to write it in the Constitution, I think.

**Mr Offer:** I want to hear from you, if you'll give me permission, because we have heard that there has been coercion and intimidation. My question to you is: What if you don't need 40% signed up by petition? What if the trigger point is something in the area of 10%; 10% have to sign petition cards, or one petition card in any workforce, and then a process kicks into place where the workers are informed that there is an organizing drive, what it means to them, and that they, the men and the women in that workplace, are able to freely and secretly cast their vote, yes or no, in favour of a union, and if the majority say yes, then it's organized? What do you say to that?

**Mr Alsadi:** You want me to answer that now? Okay. I'm going to answer that to you by a real incident that could make it very easy for you to understand. Actually, I wish you guys could just come down with us when we organize one day and we'll show you what's happening down there, but I know you won't agree to do that because you have a busy schedule all the time.

The drivers in Peterborough decided they want to have a union. We went down there. They signed membership cards. They paid a dollar. Hopefully we won't have to

charge them the dollar in future. They paid the dollar and we put the application in and notified the employer. The next day, actually only 12 hours after, from the 12 drivers, 10 were fired.

You're talking about sitting with an employer and trying to get the drivers to sit down in a meeting and decide whether they want to have a union or not. I think when you have 55% of the people who will tell you, on a card—and if you know about organizing, sir, let me tell you how hard it is. The first thing you have to do when you're organizing is try to cut down on the fears the person you're organizing is having from the fact that his employer is going to go after him.

Another example, my friend, is three weeks ago—that's a secret actually, but I have no problem saying it to you, even if it's going to go to the company—we just started organizing Capital Taxi here in Ottawa. The drivers were called to the office 35 times in two weeks, not to intimidate them, just to tell them, "If you sign a card, we're going to fire you."

We're talking about democracy. Union is the organized drive that brought democracy to this country, whether you like it or not. I think it's only fair to understand that suggesting a vote where you have the employer sitting right there, and the union and the drivers, ain't going to do you any good.

**Mr Noble Villeneuve (S-D-G & East Grenville):** My question will be short. Mr Alsadi, thank you for being here. You had a meeting with the Honourable Bob Mackenzie in January, I think I heard you say. Do you feel that what you saw in the legislation then and what you see in the legislation now is quite acceptable to you?

**Mr Alsadi:** No, I think it was moderate and it was watered down and I don't agree with watering down the legislation. I don't agree we have to go and get 60% to get a strike, I don't agree that somebody should be allowed to contract out during a strike and I don't agree that there are some other restrictions in some other areas.

**Mr Villeneuve:** Would you agree that when there's a work stoppage, if it's a lockout, the plant should not continue to operate, but if indeed it's a strike, be it legal or otherwise, would you consider that possibly the plant should be able to continue operation?

**Mr Alsadi:** If we're talking about managers being allowed to do the work, then I think it's already in the legislation. If the managers could do the job, I have no problem with that; on a temporary basis, of course.

**Mr Leo Jordan (Lanark-Renfrew):** Thank you, sir, for your presentation. I might note that perhaps the tone of your presentation is not really conducive to getting together to talk about this, but be that as it may. I notice you seem to indicate that your target is the retail workers; that the large unions are now looking after the majority of other workers and the most positive result from this bill would be the organization of retail workers.

I represent the riding of Lanark-Renfrew, and I haven't received one complaint or one request to have labour law reformed or upgraded or however you want to present it.



It's jobs they're looking for, not better working conditions. How do you explain it?

**Mr Alsadi:** Mr Jordan, you and I know this is a very boring subject for people outside this room.

**Mr Jordan:** Not for my riding. I'm sorry.

**Mr Alsadi:** You and I know that people who read the paper, usually the last thing they read is labour law reform. If it wasn't for people like you, Mr Jordan, and the business community, I don't think that would have been a major issue. I think you should have been more concerned about the economy. I think you should have put the energy—you've worked for the last two years, almost, on attacking this legislation and making it your major target—to some other major issues that people are looking at: the recession, for one, and maybe lobbying Mr Mulroney to try to ease down on interest rates and some other issues.

I don't want to repeat myself, but I just want to make one comment about what you said in the beginning. I am a very friendly guy if you want to have a meeting with me, sir. I think I would like you to convince me that labour law reform will hurt this province. If you convince me, sir, then I think I'll be able to admit that to you in writing with no problem.

1400

**Mr Brad Ward (Brantford):** To the Ottawa and District Labour Council, I'd like to thank you for a fine presentation. I think you represent your membership very well.

I'd like to focus on two areas. When we hear critics of Bill 40, they centre on these two areas, among others. The first one is investment, and you've touched on it to a degree in your presentation. In your experience, in the Ottawa area, has investment been harmed or has it dried up because of labour reform, even though the legislation is not in place yet?

The second issue deals with the perceived balance of power as far as the rights of employees and the rights of employers are concerned. The critics are saying to us to leave Bill 40 on the shelf, not implement it, because it is a level playing field under the existing act and Bill 40 would tilt the perceived balance of power towards the employees. What are your views on this level playing field and the rights of employees and employers under the existing act, and what impact would Bill 40 have?

So investment, and rights of employees and employers.

**Mr Alsadi:** My answer to your first part is that the perception out there—the business community is saying that the economy would be really hurt and there would be a loss of jobs. The Construction Association of Ontario put up a billboard saying that there are 295,000 jobs, and some other people are saying the same thing. Mr Gary Carr, the Conservative critic, your colleague in the Legislature, was saying the same thing on Global television the other day about the fact that there will be a major loss of jobs and that nobody's going to invest.

But strangely enough, in his own riding, Ford just invested \$3 billion, and another company just invested \$440 million. I'm sure he notified them about labour law reform and how bad it is, unless he doesn't visit his riding; that's something else. I don't know.

I honestly don't think it's going to hurt the economy. I don't think it's going to hurt the investors. It worked beautifully in Quebec, if we're talking about the anti-scab legislation, and most of the changes that we have right now are in the federal government and in some other parts of the country.

Now, in answer to your last part, I think there is loss of jobs in the province. I think the reason there is lots of loss of jobs is because we have poor labour law.

**The Chair:** I want to say thank you to both of you gentlemen, Mr Alsadi and Mr Dale, for appearing here on behalf of the Ottawa and District Labour Council. You represent a significant constituency and you have spoken well on their behalf. We are grateful to you for participating. You are of course welcome to remain. There's coffee there for you and other participants and observers to make yourselves at home.

#### GLOUCESTER CHAMBER OF COMMERCE

**The Chair:** The next group is the Gloucester Chamber of Commerce, if they would come forward and have a seat. I want to remind people as well that there's simultaneous French-language translation, and the receiving devices and earphones are available at the table on your right, free of charge.

Sir, please tell us your name and your title. We've got your written submissions, which will form part of the record. Please try to save the last half of the half-hour for exchanges.

**Mr Jacques de Courville Nicol:** Notre présentation sera faite principalement en langue anglaise pour des raisons de temps. Par ailleurs, je suis tout à fait ouvert à toutes questions de la part de votre illustre panel dans la langue de Molière si le besoin s'en faisait sentir.

My name is Jacques de Courville Nicol. I am the first vice-president of the Gloucester Chamber of Commerce. On behalf of our chamber's membership I've been mandated to present to you today our chamber's position on Bill 40 and its proposed changes to the Ontario Labour Relations Act.

The Gloucester Chamber of Commerce wishes to thank the Minister of Labour and members of the resources development committee and their colleagues for taking time off from their busy schedule to come to the national capital region and for giving us this opportunity to share with you some of the views and real concerns of our membership about the proposed law reform which is currently being contemplated by the Ontario government with reference to the Ontario Labour Relations Act.

The Gloucester Chamber of Commerce is a very active and dynamic chamber which represents over 3,000 businesses. Our current membership shows roughly 800 active members, the vast majority of which fall within the small business category of 100 employees or less. Our chamber represents a lot of single business owners, private entrepreneurs, mom-and-pop operations and small family businesses of 10 employees or less than we do large businesses or highly paid corporate managers from large corporations.

Our members have suffered a great deal under the 1981-82 recession and they have gone from bad to worse

in the second, 1989-92 and still ongoing, seemingly endless recession, the second in less than a decade. Given the potential negative impact of the proposed reform on a number of workers, unions, minority groups, non-profit organizations, essential public services, the business community generally and the province of Ontario's economy broadly, we wish to thank you for having given us a second opportunity to restate the deep concerns of our membership with reference to the proposed changes to OLRA.

Our chamber joins the growing number of concerned citizens and groups from all over Ontario who have recently expressed their strong opposition and/or reservations on the currently proposed reforms to the Ontario Labour Relations Act.

The Ontario Chamber of Commerce, which represents over 65,000 large, medium and small businesses in Ontario, has publicly indicated its strong opposition to the reforms proposed by OLRA and has complained on numerous occasions, apparently with no results, that the Ontario government is totally ignoring the massive economic damage that Bill 40 will cause to Ontario investments, businesses and workers.

The Canadian Federation of Independent Business, which represents over 40,000 Ontario manufacturers, construction companies, retailers and other firms, has indicated on the public record that it strongly objects to almost every aspect of the current OLRA proposal.

The Ontario Restaurant Association, which represents most Ontario restaurants, owners and operators, has expressed its concern that this proposed OLRA reform is "bringing in outdated smokestack industry concepts that will create, not solve, labour relations problems throughout the Ontario services industry."

Tourism Ontario, which represents the tourist industry in this province, complained, among other things, that this proposed ill-conceived labour law reform will prevent owners and employees in the tourism industry from protecting their companies and their jobs by forcing shut-downs during our very short Canadian summer tourist season, thereby exposing our industry to American unfair competition.

The Liberal Party of Ontario has indicated publicly that the current Ontario government's proposed Bill 40 legislation will drive workers and management apart at the very point in the economic recovery when they should be working together and that this bill will, without question, create a very negative economic climate in this province.

Not to be biased, the Progressive Conservative Party of Ontario has indicated that in its survey of over 50,000 large, medium and small businesses throughout Ontario over 70% of all respondents listed the economy and job creation as the two top issues facing the Ontario government today, while over 72% of those same businesses surveyed indicated that the proposed labour law reform was the most negative and least important priority which the government of Ontario should be addressing in today's recession-ravaged economy. For purposes of this brief, you will find the results of that survey appended.

The National Action Committee on the Status of Women publicly stated that it is extremely unlikely that

even if all the OLRA proposal were implemented, women and visible minority workers would benefit to any significant extent from this reform.

The Municipal Electric Association publicly stated that Bill 40 might prevent electrical utilities from repairing street lights or maintaining essential electrical services during a strike or a lockout, possibly endangering public safety and critical industries.

Intercede, the Toronto organization for the protection of domestic workers' rights, complained that OLRA does nothing to help domestic employees, since the smallest bargaining unit allowable under OLRA is two people, because most domestic workers work alone.

I may point out here that during my last presentation before the Minister of Labour it had been indicated to me that there would be no indication of any type of labour organization at the level below 10 employees; I now see two people.

#### 1410

The International Ladies' Garment Workers' Union stated publicly that OLRA does nothing to assist garment home workers in that the proposed legislation offers only symbolic, not substantial, help to the mainly female employees.

Finally, ladies and gentlemen, even the Ontario Association of Children's Aid Societies raised fears publicly and condemned the proposed labour law reform on the basis that under OLRA, children's agencies will not be able to operate during a strike or lockout, and that as a consequence children will take second place to union demands and, we might add, as appeared to be the case throughout the public schools' bargaining system, as witnessed during recent strike action by school teachers throughout the national capital region recently.

Having said this, we wish to state for the public record that our membership is most angry and disappointed that none of the many concerns, suggestions and recommendations which were made by our chamber during the January 1992 OLRA consultation hearings here in this region seem to have been accepted or followed by the Minister of Labour or by the Ontario government.

Our members have heard many broken promises from politicians in all parties. They have seen many of their hopes for growth and profit fade away. They have seen a great many of their friends and colleagues lose everything and go into bankruptcy with no help whatsoever from their Ontario government, while at the same time their neighbouring Quebec government, through the Caisse de dépôt et placement du Québec, was pouring more than \$100 million in special loans, grants and special assistance to help Quebec's small businesses get through the recession.

"Where was our Ontario government when we needed them?" they asked us at the chamber. "Writing more untimely, crippling and costly labour legislation to strangle us," replied many of our disenchanted members.

The business community is fully aware that more than 550,000 workers in Ontario are currently without work, and that more than 280,000 Ontario businesses have been forced to close their doors since the beginning of this second recession.



Business is also fully aware that Ontario's annual debt went from \$39.3 billion in 1989 to \$42.3 billion in 1990 to \$53.1 in 1991 to \$62.8 in 1992, and that the current forecast is to reach \$77.9 billion by 1994, a record, massive increase of almost 100% in less than five years.

Finally, business is also fully aware that the Ontario deficit has gone from zero in 1989 to a fast-deteriorating deficit of \$3 billion in 1990, \$10.9 billion in 1991 and a projected \$9.9 billion to \$11 billion in 1992, while during that same period federal transfers to Ontario increased from \$5.4 billion in 1989 to a record \$7.7 billion in 1992, a net increase of 70.13% over that very short three-year period.

Confronted by this sad and most worrisome provincial economic performance, the members of the Gloucester Chamber of Commerce must, in all fairness, ask the Ontario government for what possible reason on earth it has chosen to make this unpopular and most untimely reform to the Ontario Labour Relations Act its number one legislative priority when the economy and the financial health of this province are in such a shambles. What the whole business community needs is all the assistance and support it can get from both government and labour just to stay afloat and survive.

We must seriously worry about and question the Ontario government's sense of direction when we see this type of legislative priority being set during these times of broad economic hardship. Our members are mad as hell with the current economic situation and with the political leadership in this province. They are in a very nasty mood. They are no longer very patient. Many have become cynical and intolerant with the growing number of impractical concessions, costly decisions of their politicians, with the heavy-handedness of some of their bureaucrats, with the overzealousness and/or militancy of their union organizers, with the aggressiveness of their tax collector, and with the unreasonable and ever-increasing costs of doing business in this province.

Now, our members just want to be left alone to do their thing and, hopefully, survive and grow within what is left of the free marketplace in Ontario. The last thing Ontario businesses need right now is more interventions, more controls and more costs from big government and organized labour.

Our members are most concerned that your proposed reforms to the Ontario Labour Relations Act, which outline some 61 proposed amendments to the Ontario Labour Relations Act, only reflect the recommendations which were contained in a report presented solely by trade union representatives who participated in your government's internal review of the Labour Relations Act.

We repeat once again that we are most concerned that the business sector input on the OLRA still appears not to have been taken into account by the current Ontario government, and more specifically by the Minister of Labour.

We have also had the opportunity to review briefly a discussion paper presented by the Ontario Ministry of Labour dated November 1991, which put forward some 47 preferred options and raised some 87 very pertinent questions. We do wish to share with you today our views and

concerns with reference to some of the major proposals, the preferred options, which were contained in this aforementioned document.

Before doing this, however, we would like to state at the outset that our presentation today is based on four fundamental guiding principles.

First, in order for free enterprise to develop fully, it must be as free as possible from outside intervention and control from both government and labour.

Second, in order for a free enterprise economy to remain healthy and competitive within a fast-changing world economy, it must be able to replace, by a modern, innovative and more cooperative system, the existing rigid, negative, costly and outdated adversarial system of government-business-labour confrontation, which historically has led to the development of too many unfortunate wide-ranging confrontations between labour and government and between labour and business in this province.

Third, government, business and labour must be able to build a new partnership to ensure that Ontario is able to compete profitably, effectively and efficiently with the other provincial and world economies.

Fourth and last, business, government and labour must be able to find appropriate and immediate ways to stimulate and support the establishment, development and growth of our country's major job generators, our small businesses, which have been responsible for over 80% of all new jobs created in Ontario and Canada since 1978.

Having said this, the Gloucester Chamber of Commerce wishes to make it clear for the public record that it does not support the proposed government reform to the Ontario Labour Relations Act during these specific times of economic hardship and recession and, more specifically, it does not support the following OLRA proposals which it feels will be most prejudicial to the resurgence of positive market conditions, to the long-awaited economic turnaround and to the badly needed development of businesses in Ontario.

More specifically, our chamber opposes the proposed expansion in the classification of employees who would be eligible to join unions, including supervisory personnel, domestics, food processing workers, security guards, and professionals including doctors, dentists and lawyers, given that it is not established that such a one-sided decision would be in the best interests of those individuals and groups it purports to include, nor is it established that it would be in the best interests of the communities and businesses that they serve.

Second, our chamber opposes the proposed amendment to prevent a unionized worker at a strikebound plant from crossing the picket line to return to work, particularly if that worker decides to return to work out of his or her own free will.

Third, our chamber opposes the proposed ban on the shifting of workers within a company from a non-striking workplace into a strikebound plant, particularly if those workers agree to such a shift of their own free will. Surely, we're still in a democracy.

Fourth, our chamber opposes the proposed increase in rights for employees engaged in union organizing, given

that it is far from established that the extension of such rights are in the best general interest of business, the owners and the employees in our free enterprise society.

Fifth, our chamber opposes the proposed easier certification of unions, including the lowering of the level of support required for automatic certification to a simple majority and the elimination of petitions opposing certification, on the basis that such a move would only serve to increase tensions between business and labour, resulting in further deterioration of an already poor business climate in a deeply recessive economy.

1420

Sixth, our chamber opposes the proposed increasing of powers of the Ontario Labour Relations Board, amendments to dramatically expand the role of the Ontario Labour Relations Board to empower it to impose every term of the collective bargaining agreement and to order full disclosure of any information held by an employer that is relevant to issues in dispute in bargaining, including full disclosure of strategic internal, confidential, corporate financial information, in that it is far from established that such additional empowerment would be in the best interests of business, business owners and employees.

Seventh, our chamber opposes the banning of replacement workers.

Eighth, the chamber opposes the right to picket on third-party property.

Our chamber opposes the loss of a worker's right to change his or her mind after signing a union card. Our chamber opposes the lack of exemptions in the bill to allow for the continuing provision of critical and essential public services.

Unfortunately, the business community is led to believe that the proposal to increase even further the powers of the pro-labour Ontario Labour Relations Board only serves to demonstrate that an attempt is being made by this government to turn the Ontario Labour Relations Board from its expected role as an impartial adjudicator into an outright advocate for organized labour.

The Gloucester Chamber of Commerce wishes to add its full support to the Ontario Chamber of Commerce in voicing its strongest opposition to the current proposals as submitted by the Ministry of Labour to reform the Ontario Labour Relations Act:

1. Because it is estimated that these proposals alone would cost an additional \$8.5 million over and above existing expenditures for their implementation during the next three years and would require the hiring of 55 new civil servants in the Ministry of Labour, some, if not most, to be involved in an extensive public relations campaign to promote all of these negative changes. We believe the province of Ontario cannot afford such a luxury at this time.

2. Because these proposals will have a negative impact on job creation and economic growth throughout Ontario, because they send the wrong signals at the wrong time.

3. Because to the best of our knowledge the government has not done an appropriate economic impact study and is therefore not in a position to be able to determine

the negative effect these proposed changes will have on our economy and our business.

4. Because these proposals will take away many individual workers' rights. Employees will have no right to know how much the unions will cost them. Employees will have no right to know what kinds of settlements the unions will have made with other companies. Employees will not be given the right to change their minds once they've signed a union card. Employees will not be given the right to a cooling-off period. Employees will not be given the right to have a vote on whether or not to have a union. Employees will not be given the right to make use of secret ballot votes, one of the major cornerstones of our democratic tradition. Last, if half the employees sign a union card in an establishment, department or whatever unit the union chooses, then there would automatically be a union. We can't help but ask ourselves, whatever happened to democracy?

5. Because the Ontario labour and employment laws are already uncompetitive with other jurisdictions.

6. Because the province of Ontario is currently facing major economic challenges, such as the huge current multibillion-dollar deficit, the devastating ongoing impact of the recession, the very high and ever-increasing unemployment rate, the ever-growing free trade irritants, the tough demands on new global competition, the weak state of our current economy and the exceedingly high levels of taxation. Simply put, existing Ontario businesses cannot afford additional costs, cannot afford additional taxes, additional government regulations and restrictions, or additional labour strikes and confrontation.

7. Because the proposed changes to the Ontario Labour Relations Act are expected to have a very negative impact on labour-management relations throughout the province, in that we believe that they entrench out-of-date attitudes relative to the role of each worker in the workplace.

In conclusion, we suggest that if such sweeping proposals and changes are to be considered for Ontario, a few weeks of public consultation is not enough time to adequately consider the implications and impact of such a dramatic reform.

Second, we strongly recommend that these proposals be immediately withdrawn from consideration by the government and that instead a major consultation process be allowed to take place between government, business and labour to deal with the problems the proposed OLRA is currently attempting to address.

Third, we believe quite strongly that only entrepreneurship, innovation, freedom to trade and carry on business in the marketplace, and the preservation of the free-enterprise system can effectively and efficiently lead the way to create new jobs and prosperity in this province. Simply put, the freedom to develop and carry on business, job creation and economic growth should be our first business and economic priority in Ontario.

Fourth, we believe that the proposed reform to the Ontario Labour Relations Act does not address the real issues facing business and economic prosperity in Ontario.

Last—and I apologize for having being so lengthy—we feel that the OLRA proposals, if implemented in their



current form, will only serve to make the business and economic situation in Ontario a lot worse than it currently is. Thank you very much.

**The Chair:** Thank you, sir. We have 45 seconds per caucus. If you put questions briefly, this gentleman will have time to answer them, otherwise you can make a statement.

**Mr Villeneuve:** Monsieur de Courville Nicol, thank you for your presentation. Did the Minister of Labour, when you met with him in January, incorporate any of your suggestions in what you see as the second reading of Bill 40?

**Mr de Courville Nicol:** There are some. Obviously, there is a continuing consultation process. There are some minor changes that have been made. However, we feel that globally the intent and the timing of the act is bad. It's improper in terms of what this province needs within the type of economic recessive economy we have, and therefore we feel that those changes have limited impact, if you wish, in creating a positive climate for Ontario at this time.

**Mr Bob Huget (Sarnia):** Thank you for your presentation. On page 4 of your presentation you refer to the ministry not listening to any of the suggestions you made.

Just for the record, on page 8 of your presentation you refer to supervisory personnel still being included. It is not. That's been dropped.

On page 9 of your presentation, point 5, you refer to "lowering the level of support required for automatic certification." That is also not correct. It remains at 55%.

Point 6: You refer to "full disclosure of information held by an employer that is relevant to issues in dispute and bargaining, including full disclosure of strategic financial information." That is not in the bill, sir.

On page 12 of your presentation—

**The Chair:** Thank you, Mr Huget. Mr Daigeler.

**Mr de Courville Nicol:** If I may be allowed, Mr Chairman, I was referring to specific documents that were published and distributed by the Ministry of Labour and not to the changes that have been made since.

**Mr Hans Daigeler (Nepean):** The government says these reforms will improve the partnership between business and workers. These first two presentations we've had here in Ottawa worry me, frankly, because they're coming from such polarized positions. I'm very concerned that rather than improve the partnership, it will worsen it.

Let me ask you, because I don't want to be only negative towards these reforms, is there any effort on behalf of the chambers here in the Ottawa area to talk with the district labour council? You probably were here when the presentation was made, and you heard how strident the gentleman was. Is there any effort for you two to come together rather than government and politicians being squeezed in the middle?

1430

**Mr de Courville Nicol:** Certainly we are not in favour of legislated solutions, because we feel that they're very inflexible.

Secondly, I might say that there are some very good models at the federal level where business, labour and government are working together, particularly in the training field. I think the province of Ontario could follow that kind of example.

Thirdly, certainly we would be more than happy to meet with the local labour organizations to discuss those concerns we have in business and their concerns and see how we can come to grips with those, but certainly it should be outside of the legislative arena. That's our suggestion.

**The Chair:** I want to thank you, Mr de Courville Nicol, for appearing here today on behalf of the Gloucester Chamber of Commerce. You've made a very adequate and eloquent presentation and obviously have piqued the interest of all the members of the committee. I know that Ms O'Neill, who represents part of your community as a part of her riding, is pleased as well to have been able to be here with you today. Thank you, sir.

**Mr de Courville Nicol:** Thank you very much.

**The Chair:** Take care.

#### CANADIAN UNION OF POSTAL WORKERS

**The Chair:** The next participant is the Canadian Union of Postal Workers national headquarters. Please come forward, have a seat and give us your names and titles, if any. We've got your written submissions, which will be made exhibits and form a part of the record. Go ahead with your comments. Please try to keep the last half of the half-hour for comments and exchanges.

**Mr Evert Hoogers:** Mr Chairperson and members of the committee, first of all I want to apologize for not being Darrell Tingley. He's not able to be here today due to work that has resulted from the recent signing of a collective agreement, finally, after many years, between Canada Post Corp and the Canadian Union of Postal Workers. You're going to have to put up with me instead.

The second thing, by way of aside, that I'd like to say is that I got into the room just as the previous speaker was quoting the remarks of the National Action Committee on the Status of Women criticizing the labour law reform that's being introduced by this government. He indicated something to the effect that they had stated that women and visible minorities would not be terribly well served by this legislation.

I assume, as a result of his comments, that the Gloucester Chamber of Commerce will also be in favour of the methods by which the National Action Committee on the Status of Women suggested that this labour law could be reformed to ensure that the rights of women and visible minorities will be advanced in the labour force, including making sure that there is a lot more access to women and visible minorities in shopping malls and things of that sort and including that the isolation of part-time workers, who are mainly women, will be overcome in the new legislation.

Having said that, I'll simply get on with the remarks of our union. We're pleased to be able to come before this

committee and bring our views on the proposed labour law reform to this panel.

Of the 46,000 members of CUPW, 18,000 work in Ontario. Most postal workers are covered by federal labour legislation, but some CUPW members, approximately 60 post office cleaners, fall under the Ontario Labour Relations Act.

As this committee is aware, the corporate community is campaigning hard against the proposed amendments. The anti-Bill 40 hysteria is totally unwarranted. We believe that significant, radical changes are needed to the OLRA. Our problem with the proposed reforms is that in our view they just don't go far enough. We support the proposed amendments, but wish to make it clear that they are not the fundamental changes that are needed.

There is an imbalance in power relations between workers and employers in this country. Even if the labour law reforms that we propose were adopted, they would have no significant impact on the ability of private corporations with their unfettered power to introduce new technology, to relocate facilities or to stop production altogether.

The proposed changes do not alter the structure of bargaining in this province either. The growth of the service sector and a multitude of technological innovations have changed the workforce and workplaces. Today, two thirds of Ontarians work in small workplaces where pay is lower than in larger establishments, the rate of unionization is low and the percentage of workers who are women and visible minorities is relatively high. These vulnerable workers should have the same right to organize as workers in large plants, but these workers must contend with an OLRA that was designed when a large manufacturing plant was the typical workplace.

We would like to be able to celebrate the fact that domestics, surely one of the most exploited groups of workers, will gain the right to organize once Bill 40 is enacted, but without appropriate bargaining mechanisms, this victory is hollow.

We endorse the Ontario Federation of Labour's call for a full-scale study on broader-based bargaining. The current study of bargaining structures for domestics and home workers in the garment industry should be complemented by a study of small workplaces and service sectors.

In our brief we'd like to focus on some of the amendments where CUPW has significant direct experience and which we feel would be of interest to this panel.

**Anti-scab legislation:** We strongly support the legislation prohibiting the use of scabs during labour disputes. Post office workers know from bitter experience the legacy of violence, injuries, arrests and disciplinary penalties which have resulted from the decisions of Canada Post management to use scab labour nationally during the 1987 and 1991 postal strikes. As well, postal plants were the scene of confrontations when scab labour was brought in by Canada Post cleaning contractors in 1986 and 1987 in Toronto.

It is the right to strike and to lock out which provides both union and management with leverage at the bargaining table. The ability to cause economic hardship is tempered by the corresponding cost of such action. The use of

scab labour overturns any semblance of a balance of power. At the south central postal plant in Toronto, CUPW cleaners struck for five and a half months because the employer was able to use scab labour instead of negotiating with the union. We believe that anti-scab legislation would help to reduce the number of industrial conflicts. Such legislation would ensure that employers bargain with their unions instead of succumbing to the temptation to use scab labour to avoid their obligations to negotiate.

Our experience with the use of scab labour is that the individuals prepared to engage in this activity usually only do so out of dire need for employment and often only from fear of being cut off from unemployment insurance or welfare. We don't believe that employers should be able to exploit such economic hardship and insecurity to induce workers to engage in activities which create long-standing hostilities among working people.

In Ontario, at the end of the 13-day 1991 strike, 29 post office workers faced criminal charges, 48 employees had been fired and 53 workers faced suspensions. Many of the employees targeted for disciplinary action were union activists. The unjustness of Canada Post's action is shown by the results of the arbitrations in these cases. Arbitrators reinstated the employees to their jobs in all cases that were heard. In fact Canada Post later reinstated all the workers fired for strike activity when it settled the new collective agreement.

Unfortunately, no decision of any arbitrator can compensate for the disadvantages and insecurity which result from having one's income disrupted as a result of unjust disciplinary action. All of this hardship would have been avoided had Canada Post been prohibited by law from using scab labour.

The contrast between the 1991 and 1987 strikes and the 1981 strike is a case in point.

In 1981 the Treasury Board and CUPW were unable to come to a collective agreement. The major issues in dispute in this strike were paid maternity leave, vacation leave and health and safety protections. The strike lasted for 42 days. During the entire period, the post office did not use scabs and ceased to operate, with the exception of the delivery of pension and social welfare cheques. CUPW members lost six weeks of wages. There were no injuries, no violence, no criminal charges and no suspensions or discharges of employees. In the end, both parties made the necessary compromises and a settlement was reached.

For all these reasons, CUPW believes that the prohibition of scabs can only help the labour relations climate in Ontario. We favour strong, unequivocal legislation which would eliminate any opportunities for employers to sidestep its provisions.

We are therefore strongly opposed to the provisions of the proposed legislation that permit employers to contract out and to transfer work to new facilities. This exemption makes scabbing possible for any employer who is capable and willing to transfer its operations.

Contrary to the proposed law, CUPW believes that management personnel should not be able to perform struck work unless the union agrees.



During each of our strikes, CUPW has been prepared to take measures to preserve the public welfare. We believe that unions are responsible organizations capable of identifying and negotiating provisions for the continuation of important services.

1440

If any of the committee members here followed the recent strike in 1991, they would have seen the kind of activities that took place between the corporation and the union when, at the beginning of the strike, we encouraged that the corporation allow us to deliver welfare and social insurance cheques and that sort of thing. We saw the result of the corporation deliberately attempting to prevent that activity from taking place in the form of seniors fainting on the street in the summer sun of 1991.

Permitting management to perform struck work would only encourage anti-union employers to hire non-union personnel to circumvent the law.

Contract tendering in the contract service sector: The special problems facing workers in the contract service sector are well known to CUPW. The absence of effective successor rights legislation has resulted in strikes, wage cuts and layoffs of post office cleaners in a number of locations in Ontario.

Before 1986, cleaners in the post office were employees of the Department of Public Works. They received decent wages and benefits and were represented by the Public Service Alliance of Canada. In 1986, at the request of Canada Post management, the cleaning function was contracted out. Employees of the private sector cleaning companies were not represented by a union and received minimum wage and minimal benefits.

Recognizing the deplorable condition of these workers, the CUPW began an organizing campaign. The union successfully organized cleaners in Ottawa, Kitchener and at three major plants in the Toronto area. We were certified and negotiated collective agreements for these workers, only to lose bargaining rights when the cleaning contract was retendered. Today, the union continues to represent cleaners in the Gateway and south central plants. The certificates in Kitchener and Ottawa were lost when we couldn't force the new contractor to recognize the union.

The loophole in the existing successor rights provision means that cleaners' jobs are never secure because the collective agreement can be voided at any time if a new cleaning company gets the contract to clean an establishment. At the south central plant, the CUPW had to recertify cleaners whose collective agreement was voided when a cleaning contractor lost his cleaning contract through the tendering process.

The CUPW strongly supports the amendments to the OLRA and to the Employment Standards Act that protect the jobs and working conditions of cleaners and other similar service workers. We note that this amendment is very narrow in that it does not apply successor rights in an initial contracting-out situation, only in subsequent retenderings of work that have already been contracted out.

More could be done to protect service contract workers. The CUPW prefer to see a system in which non-union employers will no longer be able to use poverty-level

wages to undercut union contracts. For this union, the preferred system would be the introduction of a broader-based decree system in which unions and employers engage in broader-based bargaining than the terms of the settlement which could be imposed throughout the industry.

The certification process: We are pleased that the organization and certification process has been simplified and streamlined. The CUPW has had its own experiences with employers gerrymandering full-time and part-time employee lists in an attempt to thwart certification.

We note that anti-union petitions during organizing drives have only been curtailed rather than entirely abolished. In our experience, petitions are always management-inspired. The process of proving this to a panel is a time-consuming exercise that delays certification and poisons the workplace environment at a critical time in the development of the collective bargaining relationship.

Access to third-party property: The CUPW supports the proposed amendments to the OLRA that address the pressing issue of access to third-party property. Increasingly, retail and other kinds of work is being located in malls or industrial parks. We believe that unions should have the right to access, including the right to leaflet or picket at entrances to workplaces, wherever they are located.

We are concerned, however, that the OLRB has been given the discretion to limit access "as it considers appropriate in order to prevent the undue disruption of operation" of an employer. We also believe that during organizing drives unions should have the right of access to non-production areas in the workplace such as cafeterias.

The CUPW strongly supports the amendment that allows picketing of third parties during strikes. Given that the proposed anti-scab law has been weakened to allow contracting out and off-premise production, this amendment has become even more important.

Notice and obligations to negotiate technological change: The CUPW has considerable experience with the introduction of technological change during a collective agreement. The first wave of technological change in the post office began in the 1970s with the introduction of the postal code and the equipment that could read it.

The CUPW, through public campaigns and the use of its right to strike, was successful in obtaining the excellent technological-change contract language that requires the employer to give the union notice, constructively consult with the union and to eliminate any adverse effects on the employees. But in the 1990s, as the new generation of mail processing equipment is being introduced, we are painfully aware that contract language by itself is not enough.

Our collective agreement provisions have often been violated by Canada Post. Arbitrators, though willing to recognize violations of the contract, have been much less willing to order the employer to reinstate the situation as it was prior to the violation.

What is necessary is legislation that would provide unions with the right to strike over all significant technological changes. We believe such a provision would not necessarily impede the introduction of new technology. It would, however, have the effect of requiring both parties

to reach agreement on the terms and conditions under which technological changes could be introduced.

Our experience is that such a procedure would be workable. In the past, when Canada Post management was attempting to improve relations with CUPW, we were able to reach agreements with management on numerous programs involving the introduction of new technology.

Providing unions with an unencumbered right to strike over significant technological change would encourage employers to inform, negotiate and work together with their unions to ensure that all parties share in the benefits of automation.

**Conclusion:** Although we have not addressed the majority of proposed amendments to the OLRA, this should not be taken as a lack of support for them.

In closing, we wish to reaffirm our strong belief that significant radical changes are desperately needed to the OLRA. CUPW recognizes the current economic difficulties experienced in Ontario. We believe that major changes in economic and social policies are necessary to alleviate the economic devastation caused by years of neoconservatism practised by the pro-business Liberal and Conservative governments.

We recognize that the corporate community is strongly opposed to any legislative initiative that would impede its ability to maximize profits. Every day, we hear more threats of investment strikes from corporate leaders who are clearly devoid of any sense of community responsibility. Through these statements, these business leaders are revealing that the social costs of attracting their investment dollars are simply too high.

We ask the government not to succumb to these blatant attempts of economic blackmail. The needs of Ontario working people are too great to be put on hold.

**The Vice-Chair (Mr Bob Huget):** Thank you, sir. Questions?

**Mr Len Wood (Cochrane North):** Thank you very much for coming forward and for your time and effort in putting together a written brief, as well as bringing it forward.

I notice that on page 1, you mention that one of the problems you have is that the legislation doesn't go far enough. Is it your opinion that, when the consultation took place in January and February with the Minister of Labour and the parliamentary assistant, it was watered down too much?

**Mr Hoogers:** Yes, certainly in the areas we've mentioned in the brief, particularly around the areas of what we consider to be loopholes in the anti-scab legislation and contract-tendering in the contract service sector. I want to re-emphasize that we believe the legislation should cover that initial contracting out of work, not just the retendering process.

We pointed out in the document that cleaners in Canada Post across this country were unionized members who received decent wages and benefits. Once the decision to contract out was made, cleaners in the post office became minimum-wage employees who were victims of whatever whim their contract employer decided to impose on them.

**Mr Wood:** I also notice on page 5, on petitions, from what I can gather, you are saying you feel petitions should be abolished entirely, that there should be no mention of petitions in the new Bill 40 as it's brought in for third reading.

**Mr Hoogers:** Yes. Our position is that our experience has been that petitions are always initiated by the employer as an attempt to delay or prevent the organization of workers into a bargaining unit.

1450

**Mr Dalton McGuinty (Ottawa South):** Thank you, gentlemen, for your presentation. I want to address this issue of the anti-replacement workers provision and I'll have a question for you at the end.

It would seem to me that at the present time, one of the things we're concerned with as legislators is putting into place more laws. At present there is a law, as you well know, which prohibits assaults, for instance, on a picket line, there is a law prohibiting damage to property and there is a law prohibiting intimidation and threatening. Of course, that's all found within the Criminal Code. That's my first point.

My second point is that we've been advised by the Ministry of Labour that of the 94 strikes held in Ontario last year, only 19 would be affected by this anti-replacement worker provision. I'm not sure how many out of those 19 actually involved some degree of violence. So that, to my mind, brings into question the justification for the anti-replacement worker provision.

My question for you is, first of all, why do you think it's justifiable and, second, should the sanction that is to apply to replacement workers be the same for those who are not members of unions as to those who are members of unions; for instance, if someone is caught up in the union formation process and as a result becomes a member of a union against his or her wishes and then ultimately is caught up in a strike and wishes to continue to work? Could you address that for me?

**Mr Hoogers:** Yes, I can address two or three of those points, and I thank you for your question.

I'm a worker, and I think most workers have the same response as me when they see, as a result of the courts, the government, the legislation and the employer working in collusion, the ability of other people to come in and take my job. Presumably we don't live in a jungle. Presumably we live in a world of civility, a world of democracy, and I'll get to the point later when we talk about the right of other people to cross picket lines.

The reality is that there is no activity I can think of which would in any way result in the kind of emotional feelings that are the result of workers watching someone else go in to work and do their work when in fact they are attempting to come to a collective agreement with the employer. It's taking the bread off their table.

That, taken in connection with the recent experience we've had in Toronto during our strike in 1991 where, on the one hand, there were scabs and there were also anti-picketing injunctions brought down by the courts, we saw a strike being a farce. We saw a situation where, when



workers were trying to use their labour power to bring about a collective agreement, the courts, the government and the employer completely took away any power whatsoever. The result, of course, as is well known here, was that three of our members in Toronto went to jail simply for standing up for the rights of workers to negotiate with their employer and the rights of workers to engage in a legal strike.

We think strikes, when they are operated on the basis of a real negotiation process in which both the employer and the union members are required to make compromises, are the way to resolve those disputes that can't be resolved through negotiations prior to it.

As to the question of individuals in a union who aren't in favour of a strike, well, democracy cuts both ways. The fact of the matter is that in the case of our union, for example, when you have 86% of the membership deciding that the way we're going to bring about a collective agreement with the employer is to exercise our legal right to strike, we do expect our members to abide by that. Laws which say that individuals who don't agree with that can go in simply make a mockery of the entire process.

**Mr Jordan:** Thank you, sir, for your presentation this afternoon. I would like your assessment or opinion of this: Suppose I'm a small businessman in the area and I employ 10 to 12 people. You talk about balance of power throughout your presentation. As the owner of the business with the capital investment and the responsibility and so on, what rights do you see that I should have relative to my 10 or 12 employees? I'm hearing that I shouldn't have any rights whatsoever.

**Mr Hoogers:** I certainly hope that that wasn't the impression that I gave. If it was, I apologize. I think you have the right to explain to your members what your economic situation is. You have the right to open your books to them and tell them what the results would be of a strike. My experience with workers is that they're pretty intelligent people. They don't want to lose their jobs. If the employer is open with them and presents things to them in such a way that there is an understanding that things are honest and aboveboard, I don't think that as a small businessman you're going to run into any trouble.

**Mr Jordan:** You're expecting me, if I'm running a small family business, to lay my whole operation in front of my employees in order to satisfy their interest, so that they are in a better position to accept my labour policy that I see as equitable and reasonable for the type of operation I operate? Surely that isn't what you're trying to tell me.

**Mr Hoogers:** I'm not quite sure what point you're trying to make. I believe small businesses are, obviously, often in a very different situation from larger businesses—

**Mr Jordan:** But they provide 85% of the employment.

**Mr Hoogers:** Yes. I believe there is no reason why employees of small businesses can't legitimately be members of a union and collectively bargain with their employers. I said to you that you have the right, and in my view the obligation, to make it clear to your members exactly what your economic situation is. As I said before, I don't believe workers are about to shoot themselves in the foot.

When you explain to them what your situation is and they are aware it's honest and aboveboard, then I think real negotiations take place. I think we see that quite regularly, as there are a lot of small businesses in this province and elsewhere in this country that have union contracts and that get on fairly well on that basis.

**The Vice-Chair:** Thank you very much. I'd like to thank the Canadian Union of Postal Workers for appearing before the committee, and both of you for eloquently putting forward CUPW's views on this issue. Thank you very much.

#### AUTOMOTIVE INDUSTRIES ASSOCIATION OF CANADA

**The Vice-Chair:** The next group is the Automotive Industries Association of Canada, if they could come forward. Welcome. You have been allocated a half-hour for your presentation, and I know the committee members would appreciate a portion of that for questions and answers, so if you could leave some time for questions, we'd appreciate it. Proceed at your leisure.

**Mr Dean Wilson:** Good afternoon. Thank you for the opportunity to appear before your group. My name is Dean Wilson and I'm the president of the Automotive Industries Association of Canada. With me is Tony Roberts, who is the president of Gates Canada. Tony is also a member of our board of directors and the chairman of our government relations committee.

AIA is a national trade association. We represent suppliers, distributors, wholesalers and retailers of automotive after-market parts, accessories, tools and equipment. In other words, we represent all levels of our industry, which is the people who distribute parts and are responsible for servicing vehicles on the road. About 40% of our members, in terms of employment, are located in Ontario, so we certainly represent a significant share of the Ontario economy.

In summary, we urge you to cancel or delay passage of Bill 40 until the amendments are revised to be acceptable to all of the people concerned: labour, business and government. We don't believe that is the case with the bill in its present form.

In our opinion, Canada is in the worst recession since the 1930s, and it's far from over. Ontario has been particularly hard hit. At the present time, we need government action that encourages investment in Ontario and makes it easier for industry to do business.

At this point, I'd like to call on Tony to give you some direct experiences from his own company.

1500

**Mr Tony Roberts:** Good afternoon, Mr Chairman, ladies and gentlemen. I want to speak purely from the perspective of a manufacturing business based in Ontario. Gates Canada is a subsidiary of the Gates Rubber Company of Denver, Colorado, and we have been established in Ontario since 1954.

We operate two manufacturing plants in Brantford and the main distribution centre, and we employ between 650 and 700 people. Our main products are power transmission belts and rubber hoses, with which we supply the

automotive industry, both the major car factories and also the Canadian replacement market. We also supply quite significant volumes to the US market.

I'm pretty happy to say that Gates has not been downsizing its Canadian operations during this recession. Over the last three years, capital expenditure has been at record levels for the company and we have invested in a new plant and in new state-of-the-art equipment. In fact our payroll has actually increased since the end of 1990.

We are currently in the process of preparing a five-year investment plan to modernize and increase the capacity of our Canadian plants. This is additional investment over and above replacement and repair, between \$8 and \$10 million. This would put Gates Canada in the forefront, as far as technology is concerned, for the parts we produce. This will also enable us to double exports to the USA, which are currently running at about \$15 million a year. It would also result in Gates Canada being given the mandate for certain products where we would supply the whole North American market.

The biggest single obstacle I have to overcome is the perception—and I would stress the word “perception”—among our US board that Bill 40, the amendments to the Labour Relations Act, will substantially reduce the competitiveness of Canadian manufacturers by increasing the power of unions, while at the same time doing little to improve the democratic rights of workers.

This opinion is not just limited to our parent company but is shared by most of the industry associates with whom I work, particularly those working for foreign-owned companies. Whether we like it or not, the majority of manufacturing industry, major industry, in Ontario is foreign-owned. Thus, the final decision for new manufacturing investment in Ontario is not made in Ontario and it's not made in Canada; it's made in Japan, in the US or in Europe and very often by business managers who may know where Canada is on the map, but who probably could not find Ontario and they certainly have not visited Canada. But again they will base their decisions on costs, sentiment and perception.

As I said earlier, the current perception in the outside world is that if the amendments to the bill are passed, then the productivity and competitiveness of Canadian plants will be diminished and result in cancellation of future investments and therefore even greater job losses. To my mind, there is not the remotest chance that the proposed labour reforms will create any new investments or any new jobs in Ontario.

I'd just like to read verbatim a note I had from my board in the US. I quote, “We are committing some new investments to Canada and need to be particularly watchful that we get a current reading on the temperature of your government and on expected future trends in management-labour relations in Ontario.”

Gates Canada is unionized, and over recent years we have developed very harmonious and productive relations with the United Rubber Workers. We have been assisted very much by the RBO, the relationship by objectives program of the Ministry of Labour. Our aim is to build on these relationships to create a safe and secure environment

for all employees, while at the same time meeting the competitive challenges from our overseas competitors.

Neither the company nor our employees can afford a strike. In the unlikely—I'll stress again “unlikely”—event of a strike, we would not consider bringing in outside workers, simply because the basic training time needed to train them on equipment and safety would be approximately eight to 10 weeks. The result would be that products produced in Canada would be switched to US manufacturing plants and I don't think we would get them back. I believe the proposal to ban the use of replacement workers is basically irrelevant and only serves to reinforce a perception that Canada and the environment here are not friendly to future investment.

In conclusion, I believe the Ontario government should concentrate its efforts on strike avoidance, safeguarding the democratic rights of workers by legislating secret ballots and by supporting business to improve productivity and to improve competitiveness, which are the only means by which we are going to maintain and create new jobs.

**Mr Wilson:** In my letter to you, we stress seven points. We see the changes to the bill as setting up labour and business as adversaries, which seems to be the opposite effect of what you want, which is legislation that encourages a partnership between labour and business so that we can be more competitive internationally.

We also see the bill as promoting the interests of unions and making organization and certification easier. Labour law must be fair and balanced, favouring neither unions nor employers. We need balanced information to make independent choices, preferably through secret ballot if you want to protect the democratic process.

We are also against banning the use of replacement workers and other offsite employees during strikes, giving unions effective power to shut down businesses and prevent them from servicing customers, which could result in bankruptcy, which certainly does not benefit the workers.

We're also against allowing unions to form strike picket lines on third-party property, such as business exits and entrances to malls. Such action would block customers and negatively impact surrounding businesses. Anyway, it's a violation of basic workplace rights.

We're against allowing security guards in the same union as other workers in the workplace, which would make it very difficult for a business to protect its property.

We're also against fundamentally altering the role of the Ontario Labour Relations Board from a referee to a labour advocate. We need an evenhanded role between labour and business.

Finally, we're against giving greatly increased powers to this politically appointed board in areas such as the imposition of first contracts, the consolidation of bargaining units and the imposition of terms in other collective agreements.

In summary, we believe that we're at a critical crossroads and we need to protect business in the province and we need to encourage more investment. The only way to do that is to have everybody buying into amendments that make sense to labour, business and government alike. Thank you for listening.



**The Vice-Chair:** Thank you very much. Questions, Mr Offer? Approximately six minutes per caucus.

**Mr Offer:** Thank you very much for your presentation. You're certainly discussing an area which has come before the committee earlier on. That is, for want of a better word, the just-in-time segment of the economy, especially as it relates to the automobile industry.

I want to ask a question about that, but before I do so I must comment on two points where you've asked for the cancellation or the delay of the passage of this bill. Though I think there is ample reason that this bill should be further studied and delayed in terms of the concerns reached, you will know that the government has already passed a motion which really puts us in lockstep. This thing is going to be the law by Thanksgiving. What we are doing is trying to persuade the government that there are some very valid concerns out there that are not just from the so-called business sector but from a variety of other people.

The second area I'd like to talk about is the secret ballot. I've asked this question a number of times and as everyone speaks about the rights of workers to decide whether to join a union or not—boy, you mention the words "secret ballot" and the reaction is like, I don't know. However, I'm a little concerned whether that will be acceptable by the government. Certainly, if there's any indication so far, it is about as unacceptable as one can get in determining the rights and wishes of the workers in the workplace, which I think the general public would find quite at odds.

My question to you is about your particular business and just-in-time. You have indicated Gates transmission. Could you explain to the committee some aspect of what it means, some of the economic imperatives that you're confronted with nowadays and how it could be affected by this bill?

**Mr Roberts:** Certainly. The car manufacturers in North America, in their studies of what made the Japanese so competitive, found that the Japanese were not carrying huge inventories of product and therefore having to build huge warehouses to carry them.

What the tradition has been in Japan and is now taking place in North America is that the manufacturer produces a product and supplies it directly on to the production line of the car factory. No more is it going to the warehouse, then going through various hands and then being picked and put on the production line. You're going directly on to that production line.

If you're going directly on to that production line, there is no safety stop. There is no room for any delay at all. If you have a delay of something, say, as simple as a transmission belt—if you don't have a transmission belt, then the car can't move off the line and the entire line stops, and we're talking costs of millions of dollars a day.

So a car factory is now insisting that the products come on to the line just-in-time and they have to be absolutely assured that the manufacturer can meet that, not just occasionally but 365 days a year. If you can't live up to that, then you won't get the product.

**Mr McGuinty:** Thank you, gentlemen, for your presentation. I wanted to raise this issue that you had raised. It related to the perception. I think no one would question that there's a tremendous psychological component forming part of a modern-day economy. How people feel things are going and how people think things look are very important.

You made reference to your American board and the perception it had of Bill 40. I'm just wondering if you could expand on that a little bit further and perhaps speak more generally about how the American business community, or perhaps even abroad or internationally, how Bill 40 is being perceived, how much play it's getting, whether it's significant, whether they think it's not that big a factor or anything at all that you can add.

1510

**Mr Roberts:** Sure. My understanding is that certain publications, particularly the Wall Street Journal among others, have decided, for the lack of something else to print, that the labour relations reforms in Canada make good copy. They're pretty scornful about it, and therefore it gets a lot of press in the US, certainly much more so than anything else that happens in Canada.

It is something which is very much at the forefront of the minds of our US board. Their perception—as I say, not just my company, and I think with my company I am fortunate that it will listen to our side of it and hasn't taken any drastic actions—a lot of companies read into it that Ontario is anti-business and therefore investments will be made elsewhere. That is the unfortunate situation.

**The Vice-Chair:** Thank you, sir. Mr Villeneuve and Mr Jordan.

**Mr Villeneuve:** I will leave time for my colleague. Thank you, gentlemen, for your presentation. Are you in a just-in-time situation with your supplier of raw materials as well as the people you supply?

**Mr Roberts:** I wish we were, sir. We're not at the moment.

**Mr Villeneuve:** Therefore you are in a situation where you do inventory a number of raw products and you do inventory then, I gather, a number of your deliveries to the auto manufacturers as well so that you can be just-in-time.

**Mr Roberts:** We inventory raw materials, because if you're a parts manufacturer, you cannot be as accurate in your planning of what you're going to be producing over the next six- or eight-week time frame. The car manufacturer will know what models and how many and what colour he's going to be producing. We don't know, so we do carry a relatively small inventory of raw materials. With finished parts it's fairly limited.

**Mr Villeneuve:** So any work stoppage would be quite devastating to you at both ends, the production or the input end where you do get your raw materials, and you've been able to prevent that and feel that the perception of this particular legislation is negative throughout. Yet you are able to work harmoniously with a large group of workers.

**Mr Roberts:** I think that's a different subject. I think the ability to work harmoniously is down to the attitude of

the company, the company management, and also equally to the attitude of the unions in having responsible union leaders. But I don't think they're always going to get responsible managers and we're not always going to get responsible union leaders.

**Mr Villeneuve:** Can we legislate that?

**Mr Roberts:** No.

**Mr Jordan:** Thank you, gentlemen, for your presentation. I would like to refer to the third paragraph of your letter, where it states, "We urge you to cancel or delay passage of Bill 40 until the amendments are revised to be acceptable to all the players." The Minister of Labour, to my way of thinking, has indicated to us in the House that his ministry has consulted and has in fact included all the players, and this legislation is a result of that. Would you care to comment?

**Mr Wilson:** I'd be glad to comment on that. It's true that you're certainly holding hearings, and you're hearing arguments from both labour and business. But having sat through some of your hearings this afternoon, I don't hear that you've got a consensus on what to do. It seems to me you're hearing views from both sides of the fence that aren't in agreement, so isn't it in your best interests to have legislation or changes to this bill that would be acceptable to all of the parties?

We're not against changes to a bill if everybody buys into it, but it seems to me you don't have that consensus yet, and that's the point.

**Mr Jordan:** If we were to withhold this legislation for further consultation, do you have any input as to how we would get it off the ground in a different way from what the minister has assumed he has done to date? They had been around the province prior to this turnaround, and now we're going around, you might say, the second time and still have the assumption that we have consulted and that we have all the players involved, which as you say is quite clearly not the case.

**Mr Wilson:** Well, when you first started out, you had two minority reports. You couldn't get labour and business to agree on a report, so they submitted two reports to you, I understand. I think it was incumbent upon you people to get them back to the table until they could agree on something that was acceptable to all parties, and that has not been done. I don't think you should give up the fight until it is done.

**Mr Ward:** Thank you for your presentation. Gates Rubber is a very good corporate citizen in the community of Brantford. Was the \$8-million investment you mentioned for the Iroquois Street plant or Henry Street?

**Mr Roberts:** The Henry Street plant; this is one specific investment on modernization. There are investments for the Iroquois street plant as well.

**Mr Ward:** Is the \$8 million in addition to the \$4 million that has already been invested? I know there were some new lines brought in with computer technology, and they were successful, were they not?

**Mr Roberts:** They were very successful.

**Mr Ward:** With the team concept?

**Mr Roberts:** We had two of those at \$4 million a piece. The additional \$8 million to \$10 million is over and above everything else we have in the pipeline at the moment.

**Mr Ward:** That's for an additional computerized technology, I guess.

**Mr Roberts:** Yes.

**Mr Ward:** I believe the Iroquois Street plant was the original plant in Brantford. Was it last year that suggestions by the employees, I believe, saved thousands of dollars in operating costs and made that plant competitive, or at least allowed it to remain competitive in the market?

**Mr Roberts:** Yes. The Iroquois Street plant, which is the hose plant, was one of three hose plants in North America. It was certainly the least productive. It has now overtaken one in the US and is getting close to the top one in the US, which is a brand-new plant. It's very much due to the teamwork and spirit and cooperation within the plant.

1520

**Mr Ward:** Which has developed over the last few years, I guess.

**Mr Roberts:** Yes.

**Mr Ward:** The new lines for the Henry Street plant were brought in earlier this year or last year?

**Mr Roberts:** One was early in 1991 and the other one in April of this year.

**Mr Ward:** I know Garry MacDonald, the president of the local Rubber Workers Union representing the Gates workers, is a very responsible union leader. Do you think it would be of benefit to have him contact you perhaps to reassure jointly the American board of Gates that the workers of Brantford are very competitive, very keen to do a productive, quality job, and use the successful \$4 million that has been invested as recently as April as an example of how we can adapt to new technology with the skill level we have?

**Mr Roberts:** That has already been done. We had our CEO from the US up about four months ago, and Garry was in that meeting. We don't have an immediate threat; in fact, we don't have a threat. I was talking overall on this topic about the perception; it wasn't necessarily aimed at the Gates rubber company.

**Mr Ward:** I'm looking forward to a goods-news press conference in the city of Brantford.

**Mr Pat Hayes (Essex-Kent):** One of the issues, when we talk about the perception that others outside this province or this country may have, is that there are people who suggest that these billboards and full-page ads saying how devastating this is going to be in industry and the economy of this province—I don't want to put you on the spot, but would you agree that a different type of tactic, maybe more working together, would have worked better than that? I believe strongly that this is the perception and that's where the perception came from, probably more than any piece of legislation we have here.



**Mr Wilson:** The fact is that you are getting different points of view from labour and business in your hearings. You need to come up with a proposal or have amendments that are acceptable to both sides, and I don't think you've got that yet; at least I haven't heard it. I think you need to stick with it until you do.

**Mr Hayes:** I'm pleased to hear the part about you having a good working relationship with the union and the members. I'm sure they take part in some of your production plans and things. You say you have this good relationship, and I think you also said you've never used any replacement workers. Am I correct in that?

**Mr Roberts:** We have not in the past; we've had two or three strikes, and we have not used replacement workers.

**Mr Hayes:** Could you give us any specific examples as to how these amendments would affect your operation?

**Mr Roberts:** It does not, and I do not believe it will, affect our operation. But the point is that we're just one of many operations, and this is part of the package. I'll get back to that word "perception," with overseas investors not looking positively upon investment in Ontario. We don't need perception; we're here already, and we don't have the problems that are indicated. But many other manufacturers in the automotive industry are in that situation; many have closed, even Canadian companies. Tridon in Burlington closed and moved south.

**Mr Wilson:** One other point is that we represent the entire after-market industry. Tony's company is unionized, but I would say 85% of our members are not unionized, because we represent manufacturing, distribution, wholesaling and retail; for example, Canadian Tire, Sears, K mart are members of ours; Midas, UAP, Uni-Select. These are the sorts of companies that form the majority of our membership and certainly the vast majority of employees are not part of unions.

It seems a little interesting to me that of all of the list of people appearing before this group—60% of the labour force in Ontario is not unionized, I understand, but how much representation are they getting at these hearings? It seems a little odd to me that all the labour you're hearing is from the unions. Is that fair? Are you really getting the message that you need to get, a balanced message from the labour community?

**Mr Hayes:** My response to that is that we have heard about a lot of cases where individuals, women and minorities, have indicated they wanted to join a union and wanted to be organized. If these cases are all factual, where they've been dismissed or harassed or intimidated or coerced, imagine what would happen to some of the people if they came here, where there are TVs and things of that nature around. I'm not disputing entirely what you're saying, but I'm sure those people would feel intimidated. And I don't know of anybody who has said that individuals could not come here if they said they were unorganized people.

**Mr Wilson:** We're not against denial of rights to minorities and all the rest of it.

**Mr Hayes:** We're not either.

**Mr Wilson:** But the whole point is, why don't you canvass all of the labour force in Ontario and find out really what the opinions are of the entire demographics, not just the unions?

**The Vice-Chair:** Thank you, sir. I'd like to thank the Automotive Industries Association of Canada and each of you for taking the time to present your views here this afternoon. Thank you very much.

#### PUBLIC SERVICE ALLIANCE OF CANADA

**The Vice-Chair:** The next witness is the Public Service Alliance of Canada, if you could come forward, please. Welcome. Could you identify yourselves? You've been allocated a half-hour for your presentation; if you could leave a portion of that for questions and answers, I know the committee members would appreciate that.

**Mr Daryl Bean:** Thank you very much. My name is Daryl Bean and I'm the national president of the Public Service Alliance of Canada. With me is Steve Jelly, the executive assistant to the alliance executive officers.

On behalf of the 170,000 members of the Public Service Alliance of Canada, and more particularly the 75,000 who live and work in Ontario, I should like to thank, first of all, the standing committee on resources development for granting us an opportunity to participate in your public review of Bill 40.

At the outset, so that you can fully understand where I'm coming from, I would like to emphasize that PSAC fully supports and endorses the submission made by the Ontario Federation of Labour. Our purpose in making a separate submission is to highlight some of the proposed changes and their likely effect on PSAC and that part of our membership certified pursuant to the Ontario Labour Relations Act.

Before doing so, however, I would like to comment on the controversy that has surrounded the introduction of the government's labour law reform package. Few issues have received as much attention in Ontario since the historic election of the current government as the proposals to reform the labour legislation in the province of Ontario.

The corporate community has pitted itself against the government and, I suggest, also against working people in an attempt to maintain the status quo. The corporate community's self-interest position is offensive to working people in Ontario and particularly those who have been victimized by the current law and its inherent bias in favour of employers.

#### 1530

It needs to be said at the outset that governments have a legitimate role to play in the relationship between employers and working people. In addition to establishing minimum standards and terms and conditions of employment, governments have an obligation and legitimate reasons for regulating the certification procedure and bargaining relationship.

Members of the committee should understand that the power held by the parties to industrial disputes is frequently unequal. The corporate community holds considerable

economic power that it can use to its advantage during disputes with working people. Under the existing law employers can and frequently have hired replacement workers in order to maintain an operation during legal strike activities.

In addition, employers can and frequently do contract out work normally done by members of a certified bargaining agent. The ability of employers to continue operations during strike activities is fundamentally wrong. Moreover, by permitting this practice, the government of Ontario has historically favoured employers over working people. It is time to correct that historic injustice and establish a neutral role for the government in industrial disputes.

In many important respects Bill 40 meets the challenge. In other areas the legislation is deficient. The bias against Ontario workers in the Ontario Labour Relations Act is a serious matter. While freedom of association, including the right to organize and bargain collectively, is guaranteed to all Canadians under the Charter of Rights, certification procedures and the right of employers to continue operations during strikes and lockouts have rendered the constitutional guarantee of freedom of association meaningless for many Ontario workers.

Without question, the government's proposal to place restrictions on the use of strikebreakers and scabs is the most controversial aspect of the reform package. The alliance is generally supportive of the proposed reforms in this area and should like to applaud the government for proceeding in the face of an organized attack by big business.

That said, there are a number of loopholes in the proposed legislation that will in some cases permit employers to continue to operate. The loophole whereby employers can contract out bargaining-unit work is particularly problematic for unions such as PSAC, which represents workers in organized and service industries and the parapublic sector.

Permitting employers to continue full operations during a strike or lockout by way of contracting out provides employers in many jurisdictions with an incentive to lock out their workforce. At the same time, the employer's ability to contract out bargaining-unit work during a strike reduces the effectiveness of that strike action.

Should Bill 40 be adopted as currently worded? The alliance believes that some employers will use the threat of contracting out to adopt a take-it-or-leave-it bargaining philosophy, forcing concessions on workers and forestalling strike activities. It should be noted as well that once work is contracted out, it becomes exceedingly difficult to contract back in. As a result, work temporarily contracted out during an industrial dispute could well become permanently contracted out.

Hence, we would strongly urge members of the resources development committee to amend Bill 40 to ensure that companies are prevented from contracting out bargaining-unit work during a strike or lockout. Contracting out is also of concern to the alliance with regard to the government's proposal establishing a back-to-work protocol. Under the proposals employers are not obligated to reinstate employees if there is insufficient work.

As a result, the alliance can envisage a situation where employers contract out work during a strike and then continue to contract out after a settlement in order to avoid reinstating all striking employees. Such an outcome is untenable. For this reason, the PSAC strongly urges your committee to amend Bill 40 to ensure that the contracts are terminated when a strike or lockout is ended.

Before closing, I should like to comment on some of the proposals related to organization and certification. Since January 1991, the PSAC has organized five separate groups of employees in Ontario pursuant to the provisions of the OLRA. In addition, the alliance is actively involved in other organizing campaigns in Ontario. While our experience in this regard is less substantial than a number of other unions that are scheduled to appear before you, it is sufficient to have convinced us that the OLRA is in need of reform.

Without question, the hurdles currently faced by unions organizing groups of workers in Ontario are substantial. This is more than an inconvenience for the unions involved, for in reality obstacles to union organization drives deny workers their fundamental right of freedom to associate.

During an organizing campaign of the Multicultural Assistance Services of Peel initiated by the alliance, the employer discharged an employee who was actively involved in the certification drive. While we were able to file an unfair labour practice complaint under the act and successfully negotiate a settlement, the process was time consuming and in other circumstances could have been fatal to the organizing drive.

Unfortunately, Bill 40, while a considerable improvement over the existing legislation, does not expedite the process nearly enough to ensure that employers don't use discipline and discharge to throw off organizing drives.

In order to gain certification, a union must demonstrate support at a level of 55% for automatic certification or 40% for a representation vote pursuant to Bill 40. Before seeking certification, a union must be fairly confident that it has met the requirements, yet only the employer has access to the employee lists. In Bill 40 the government has chosen to maintain the status quo. This is a serious deficiency in the government's reform package, which provides employers with an opportunity to frustrate the freedom of association of Ontario workers.

The PSAC urges the resources development committee to correct this imbalance in the relationship between employers and unions by adopting an amendment to Bill 40 that would require employers to provide unions with employee lists immediately upon an application for certification. Anything less will continue, with justification, the bias against certification and freedom of association that is contained in Bill 40.

I thank you very much and am prepared to respond to questions.

**Mr Villeneuve:** Thank you very much. There was a public service strike here for a short period of time in October. That was a legal strike, I gather.

**Mr Bean:** Yes it was, from September 9 to October 3.



**Mr Villeneuve:** The problem we seem to have heard here is that certain conditions were placed on people who did cross the picket lines. Could you enlighten us a bit on what happened at that time?

**Mr Bean:** Like any other jurisdiction, there are rules when you join an organization, similar to what political parties have, by the way. If you do not abide by the constitution of the organization, then you are subject to discipline. In some of those cases, members who crossed the picket line had their membership removed. I might remind members of Parliament that you should be well aware of that, because it's well known that when a member of Parliament crosses his political party, he also gets kicked out of caucus.

**Mr Villeneuve:** Well, the Chair is not here.

**Mr Bean:** I didn't mention the Chair, but he could probably explain it to you.

**Mr Villeneuve:** He didn't get kicked out of caucus, however, but is here. We have an excellent Chair.

**The Vice-Chair:** Let's proceed with questions on Bill 40.

1540

**Mr Villeneuve:** You do have the power to reprimand and of course you use that. Would you see the rights of the individual union member being watered down by this legislation?

**Mr Bean:** Not to my knowledge in reading the bill. I don't think that it waters down the rights of individual union members to participate in the union, to take corrective action if they believe that the process is wrong. In our own case we have an appeal system, and in that case some members are exercising the right to appeal and some are being successful with their appeal.

**Mr Villeneuve:** Would you agree then that union bosses have considerably more power with Bill 40?

**Mr Bean:** No, I don't think union bosses have more power. I would suggest that working people will have more power, because they would have the opportunity to organize and some protection, particularly if some of the amendments that we propose were put forward, and in terms of a speedier process where one who is attempting to organize a union gets dismissed in particular. We've had that experience.

**Mr Villeneuve:** Thank you. I'll yield to my colleague the member for Lanark-Renfrew.

**Mr Jordan:** Thank you, gentlemen, for coming this afternoon. I note that there are several areas in this bill that are not acceptable to you. Would you then agree that we have not yet reached a consensus and that perhaps the legislation should be delayed, as the previous presenter indicated, until we do more work together, all parties, and until in fact a consensus is reached?

**Mr Bean:** First of all, what I say is the bill is not acceptable in the sense that we don't think it goes far enough. It's a substantial step in the right direction. I suspect if you're waiting for labour legislation where all par-

ties will reach agreement, then we wouldn't have labour legislation in this country in the first place.

I appear before parliamentary committees at the federal level probably at least 20 times a year, and I have yet to see one of those parliamentary committees where people were unanimous and everything was just beautiful. So if you're going to wait until everybody agrees with this legislation, then I suggest you won't be in the House long enough to see the end of that legislation, because we'll be down the road a number of elections.

**Mr Jordan:** I'm personally sort of disappointed in your comments, sir, because what you're saying here is that you have to have 100% agreement to have a consensus. That is not my understanding of a consensus on an issue such as this, and if it was, we wouldn't have a consensus on anything, might I say.

I'm asking you about the points you've made that are not acceptable to you, and the previous presenter has indicated the areas where he feels more discussion is required. Are you of the idea that jointly we should hold this legislation for further consultation so that in fact we do have something closer to an all-around consensus on it?

**Mr Bean:** First of all, I guess when I was talking about consensus, I was taking the dictionary definition of "consensus," which was "unanimous" by the way, the last time I looked in the dictionary.

If you're seeking further consensus as to agreement, I think it's safe to say that the positions have been pretty well drawn, as you have already seen, and I am very doubtful if you're going to reach that.

I can tell you from my own personal experience that there has been a lot more consultation and a lot more effort put into reaching consensus in this legislation—as you indicated yourself, it's the second round of hearings in the public domain—than I have ever seen in the federal legislation. So, no, I'm not suggesting that the committee hold the legislation to try to reach even further consensus.

If we can reach further consensus, I'm certainly prepared, as I understand the Ottawa and District Labour Council has indicated it is certainly prepared—and as one of the previous speakers said, from the chamber of commerce, they'd like to meet and discuss it. We're all prepared to sit down and discuss it. Obviously, if we can reach consensus on some of the aspects, then it wouldn't be hard to get another piece of legislation in to amend those aspects too.

**Mr Tony Martin (Sault Ste Marie):** I want to thank you for coming before the committee today and for presenting such a well-prepared document. I'd like to ask one question from the document itself, then I have another question to follow that. In number 6, Mr Bean, you mentioned in the first sentence, "The ability of employers to continue operations during strike activity is fundamentally wrong." I'd like you to say why you think that's true, and do you have any examples to give us to back that up?

**Mr Bean:** The best example one could pick is probably the Quebec situation. The Quebec government—which, by the way, has had a couple of governments since and has maintained the anti-scab legislation—certainly

reduced the violent situations that occur on picket lines. It certainly is one that has the endorsement of the employers' council in Quebec; in fact, they've recently withdrawn their last objections to it. I think that's probably one of the best examples anyone could draw on as to why it's necessary to have legislation to prevent employers from being able to continue their operations during the strike. If for no other reason than stopping the violence and bringing about a climate which encourages both employers and unions to settle their collective agreements, it would be worth it, but I think there's a point beyond that where in fact it has clearly been demonstrated that it is the right direction to go.

**Mr Martin:** Another troubling criticism I'd certainly like to discuss more with some other folks is this idea that giving more autonomy or power to the worker by way of his ability to organize as a union is somehow going to render our economy less competitive. I find it difficult, because I know there are a number of countries that are highly unionized that are very competitive today in our global economy. In my own community of Sault Ste Marie, the Steelworkers worked along with management and government and the financial institutions to save that plant and bring it back to the starting lines. It might have another future that will be beneficial to all of us who live and work in Sault Ste Marie.

In making the criticism that giving the workers more power would render our economy less competitive, there's often a finger pointed at the public sector as an example. I wonder if you would comment on that and maybe help me and others understand how this piece of legislation will, rather than render the economy less competitive, make it more so?

**Mr Bean:** In the first place, when people talk about that situation, they haven't really done their homework. If you go into the Scandinavian countries, if you go into Germany, if you go into a number of the countries within the European common market, you will find that they are much more organized, ranging anywhere from 60% to 80% to 90% organized, yet they are the countries we are having to compete against. It's been proved that labour and management, by having the high degree of unionization, have been more productive.

Also, a number of studies have been done to show that unionized workforces tend to be more productive than non-unionized workforces, university studies that weren't conducted by unions—and they certainly weren't conducted by our union. They show that they tend to be more productive because they tend to be happier employees, in most cases.

I would suggest that those who take the approach that it's not a good approach are not really looking at the facts in countries that are highly unionized and studies that have been done here of unionized versus non-unionized workplaces.

1550

**Mr Offer:** Thank you for your presentation. I very much appreciate it. I have a short question and then my colleagues will take over.

The first presentation today was from the Ottawa and District Labour Council. I asked a question on the issue of the secret ballot. I must say that when I asked the question, I was somewhat disappointed with the answer.

But I want to ask you the question because I believe your presentation speaks about point 37, the freedom of association, including the right to organize. I think no one disputes that; that's not what this bill is about. That right is there, and what we want to do is make certain there is a process in place so that those workers have the right to freely make their choice, free of coercion. I believe legislation can be put in place to protect the worker from coercion, at whatever source. For instance, let there a trigger vote at 20%, and let the majority decide whether it wishes to be organized or not. Many people, especially on the labour side, to be very frank, have been extremely critical of that. In fact, even the first presenter was extremely critical of giving the rights of the worker that type of freedom.

I asked that question in light of a bill that was introduced by the Ministry of Labour on June 25. You may be aware of that bill, which is really a disaffiliation bill. It's the right of an Ontario union to disaffiliate from its international. Reading from the bill, if there's a request for disaffiliation, "The board shall conduct a secret ballot vote of the members." So the principle of secret ballot is not only recognized; the Minister of Labour has put it in legislation on June 25. In that, could you support that type of secret ballot vote? Certainly the Minister of Labour has seen it possible in a bill that was introduced three weeks after June 4.

**Mr Bean:** I think that provision is there. You talked about 20%. If you want to amend the bill down to 20%, I suggest you do it, because the provision is there now when there is 40% in the bill.

**Mr Offer:** What if 20% kicks in a free secret ballot?

**Mr Bean:** If you want to amend the bill down to when 20% of the people sign up, you have a secret ballot to find out whether they will join, then I have no objections to that. I'm saying to you that when a clear majority of the members sign up—while I think it should be a simple majority and that's what we recommended, the bill now says 55%, and that's fair enough—then you don't need a vote.

**Mr Daigeler:** You mentioned right at the very beginning of your brief that the corporate community has pitted itself against the government and working people. What do you mean by the "corporate community"? The way I traditionally understand that term it refers to large companies, often multinationals. But the reality, as we've heard even here today, is that a lot of small business people are very concerned about this legislation and feel severely threatened by it. Do you include them in that term "corporate community," or what do you mean by that?

**Mr Bean:** Generally speaking, I'm referring to the large business community. There are several different lobby groups out there now, which I'm sure you're aware of, because I certainly am, that have spoken out against the bill and have taken out ads against the bill.



Yes, I do include the small business community also, because I have yet to find an organized business community that has supported any progressive legislation. I'm thinking of employment equity, I'm thinking of equal pay for work of equal value, I'm thinking of medicare when it was brought in, the unemployment insurance scheme when it was brought in. The organized business community—I guess we could use that term—has always opposed that type of legislation, so I'm not surprised that it has in this instance.

I think that in this instance it's been directed more at the political party, which is fine. It's fair enough that they've done so in a democracy, but that's what I'm referring to.

**Mr Daigeler:** If I still have time for a second question, Mr Chairman, I would like to continue. Mr Martin rightfully pointed out a very serious comment you made, and I consider this a very strong statement: "The ability of employers to continue operations during strike activity is fundamentally wrong." In your answer to the previous question, you referred to the anti-scab legislation in Quebec and so on, but even under that legislation the employer can continue to operate if he can find management and so on. That would be possible even under the current reform proposals, but you seem to go beyond that: You seem to say it's fundamentally wrong for the employer to be able to continue to operate.

If that's your position, the employer has only two options. He can either close down or he can give in to the requests that are made by the union. Do you think that really is a fair option? Do you really believe—or are you really wanting to say something else—that it is in the interest of the workers that you represent to have all these businesses shut down and put these workers on the street?

**Mr Bean:** Again, if you want to pull it out of context, you can do so. As I indicated, I think the Quebec bill is a very effective bill and so do the employers in Quebec. One is not suggesting that management people can't go to work. We've never suggested that and don't suggest it here. What we're suggesting is that during a strike, they should not be able to continue business as usual. One of the provisions is that, yes, there will be some business carried out, but it will be restricted business.

I would suggest, as I have in this brief, that the Quebec legislation is much more effective than this and goes beyond this, and I would encourage the committee to take a serious look at the Quebec legislation. As I say, even the last group opposed to it, the employers' council in Quebec, has now accepted it and said it is a good bill and is in fact working. It has reduced violence; it has reduced strikes. I don't think one would argue that the Quebec economy has not picked up over the last 10 or 12 years. I suspect we could all acknowledge that the Quebec economy has boomed in the last 10 or 12 years relative to what was happening before.

I don't want to leave the impression with the committee that it's all because of that legislation, but it certainly was a contributing factor, or at least the employers' association in Quebec said it was.

**The Vice-Chair:** I'd like to thank the Public Service Alliance of Canada for taking the time to appear before the committee this afternoon, and both of you for expressing the alliance's views. Thank you very much.

The next group is the Canadian Tire Ottawa Valley dealers association. Are they present? We'll move to the 4:30 scheduled presenter. Should the Canadian Tire association attend, we'll put them on at 4:30.

1600

#### TRANSPORTATION-COMMUNICATIONS INTERNATIONAL UNION

**The Vice-Chair:** Sorry for the program change, but this should be the Transportation-Communications International Union. You're allocated one half-hour for your presentation. If you could leave sufficient time for some dialogue and questions and answers from the committee, I know all parties would appreciate the opportunity for that.

**Mr Don Bujold:** That's fine. Good afternoon, everybody. I would like to preface my remarks by thanking the standing committee on resources development members for agreeing to receive us here today and thank them in advance for the interest in what the Transportation-Communications Union has to say with respect to Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment.

Allow me to begin by explaining that the TCU is an international union, with our international headquarters located in Rockville, Maryland, in the United States, just a short distance from Washington, DC. The Canadian division national office is located in the city of Ottawa. We are appearing before this committee to speak on behalf of the TCU's Canadian division, which is an affiliate of the Canadian Labour Congress.

The Canadian division represents more than 12,000 people across Canada involved in the transportation of goods, people and information. Our members move grain shipments through the port of Thunder Bay, Ontario, as well as freight through the country's many other ports and inland terminals. TCU members drive trucks and deliver everything from bulk goods to small parcels. TCU members employed by Marine Atlantic help get people and freight loaded on the ferries that service the maritime provinces. In short, when it comes to transportation, TCU members do it all. In addition, we represent growing numbers of employees at Unitel Communications.

The majority of our members work under federal jurisdiction in the country's trucking, rail, airline, communications and grain industries. As a result, those employees are subject to the Canada Labour Code and are not covered by Ontario's labour relations legislation. We do, however, also represent approximately 200 people employed by Trimac, Howell Warehouses and Holiday House in Ontario which are subject to provincial labour legislation.

We want to emphasize that an important reason why we are here today in support of the proposals contained in Bill 40 is that experience has taught TCU and other unions that advancements made at one level of labour legislation can lead to advancements at another level. We do not want

to overlook either the significance or the importance of this kind of precedent.

To begin, in dealing with such a comprehensive piece of legislation as Bill 40 it is only fair to acknowledge that the government did a very credible job of consulting the people of Ontario by doing the necessary groundwork before tabling the bill in the Legislature. We agree with the government that the bill, as it is written, makes a serious attempt at "fairness, justice and jobs for Ontario."

Over 300 groups, representing business, labour, unorganized workers, women, immigrants, chambers of commerce and community groups, all had a chance to have their say on labour reform. In our opinion, this was a fair and balanced consultative approach and we give the government credit for proceeding as it did in this fashion. This hearing is another example of the government's commitment to the consultative process.

We intend to limit our comments on Bill 40 to deal only with those parts of the bill which bear most closely on the types of situations that face our members or, for that matter, on situations involving groups of unorganized workers we are interested in attracting to our union. In this respect, what the bill has to say about organizing and certification bears some examination and brief comment.

Organizing and certification: Protection of employees from unfair labour practices during organizing campaigns: Labour in Ontario is on the record as recommending that the act be amended such that where an employer has knowledge of an organizing campaign, he or she must obtain leave of the board before disciplining, discharging or removing any employee from the prospective bargaining unit.

Our grain division in Thunder Bay, Ontario, had a situation recently where several employees of a local unorganized trucking company indicated that they were interested in joining the TCU. Discussions were held between the interested employees and the TCU leadership in that port city with a view to establishing an organizing campaign. As soon as management got wind of this development, it dismissed three employees who were strongly supporting union representation. The TCU immediately went to bat for three employees and filed unfair dismissal charges against the employer.

Looking back, we were successful early in our organizing campaign in getting a majority of 40 cards signed in our favour, but as a result of the events described above we lost three months of valuable time we needed to win an automatic certification. When the vote was finally counted, the results were 41 opposed to a union and three in favour. If those three employees had not been let go as they were by the employer, we are confident that the outcome would have been completely different and those workers would have a union today.

Under the proposed amendment, section 92.2, unions can request an expedited hearing where it files, as was done in this instance, an unfair labour practice complaint under section 91 of the act alleging that, as in this case, the employee was terminated during organizing activities. According to Bill 40, when such an action is initiated, a hearing under the proposed changes must commence within 15

days of the request and must sit on consecutive days until the hearing is complete. This is a welcome change in that it will serve to deter employers from committing unfair labour practices during the course of the organizing campaign.

Access to third-party property: TCU supports the amendment, subsection 11.1(2), that provides employees and union representatives the right to be, for purposes of organizing, on the premises "to which the public normally has access and from which a person occupying the premises would have a right to remove individuals." As a result, union organizing activity can now take place on all private property to which the public has regular access, such as shopping malls and industrial parks.

TCU also supports the amendment to subsection 11.1(3) that allows picketing during a lawful picket or lockout on third-party property.

Membership fee eliminated: TCU is supportive of the elimination of the \$1 fee that is required under the current legislation for purposes of affiliation.

Support required for certification: TCU would have preferred this level of support to be a simple majority only, rather than the 55% as required in the bill. We do, however, fully support the lowering of the percentage needed for a vote from 45% to 40%.

Improving collective bargaining and reducing industrial conflict: Another area of concern the TCU wishes to address in this proposed legislation is improving collective bargaining and reducing industrial conflict. Specifically, we want to draw the committee's attention to the following issue:

Use of scabs: We are pleased to see that sections 73.1 and 73.2 of the legislation introduced far-reaching restrictions on the employer's ability to have bargaining unit work performed during a lawful strike or lockout. We recognize that Bill 40 requires unions to have at least 60% of those voting authorize the strike for this to become effective. We are disappointed, however, that the legislation allows for employers to relocate, contract out or use non-bargaining-unit employees along with supervisors to do bargaining unit work.

We know from experience that another issue addressed in the legislation, namely, preservation of bargaining rights, is of critical importance to our union. We wish to make the following points relative to this issue:

Successor rights—sale of a business: We are pleased to note that under this legislation a successor employer will now be obliged to take the place of the former employer in relation to the trade union in an expanded number of situations, including a proceeding before the board under any act, a proceeding before another person or body under this act and a proceeding before the board or another person or body pertaining to the collective agreement, subsection 64(2.1)

Trucking: Today TCU is looking at a situation in which a large US-based truck carrier, Roadway Package Systems, RPS, is making final preparations to operate in Canada. We know it is going to happen because the industry is preparing for it.



RPS is the third-largest trucking fleet in the world and it will be directly competing for business now handled by Canpar, a division of Canadian Pacific Express and Transport. CP management announced today that Canpar is up for sale. TCU represents approximately 1,700 Canpar employees across the country, both drivers and office staff. If RPS is successful in attracting business away from Canpar, as we suspect it will, a significant number of Canpar employees will likely move over to work for non-union RPS. TCU wants to continue to be able to represent these employees in the event that they become RPS employees, and successor rights is clearly the vehicle for that to happen.

On another front, we should mention that Canadian Pacific Express and Transport recently sold its bulk systems division to Trimac terminals that are located across the country. Trimac then set up these terminals as provincial companies, including the one in Thunder Bay, Ontario. As a result of this move, our union was forced to apply for provincial certification and bargain benefits for those employees. As you can appreciate, we ended up in a vote to retain those members which involved a great deal of needless stress and anxiety on the part of the membership, not to mention the considerable expenses incurred by the union.

1610

Rail: There is every potential for the identical situation to happen on the rail side. Unions have to be prepared by having successor rights legislation in place. Smaller rail line operations in Ontario are facing uncertain economic futures and several of them may be sold off to interested buyers. The employees of those railways want to have some measure of job protection, and successor rights is the logical vehicle to provide that protection for them.

TCU is very supportive of these amendments that will ensure that bargaining rights and obligations are not delayed or avoided by the sale of a business by making the successor employer replace the former employer to the extent possible. We maintain that the successor employer be bound by any and all terms already negotiated and, furthermore, that statutory obligations and the grievance provisions of the pre-existing collective agreement will remain in place.

Federal to provincial sale: For the very reasons described above, TCU is satisfied that under these amendments, section 64.1 of the act will extend successor rights protection so that they will apply to the sale of a business covered by the Canada Labour Code but which, following the sale, is covered by Ontario's labour law. This parallels the successor rights—crown transfers—which already exist when an enterprise is transferred from the Ontario Labour Relations Act to the Crown Employees Collective Bargaining Act or from the public service to the Ontario Labour Relations Act.

TCU is supportive of these amendments as they ensure that employees, our members, will not lose their bargaining rights and collective agreements over sales of businesses and transfers of legislative jurisdictions.

We wish to emphasize, however, that we are not comfortable with subsection 64.1(3). We feel this subsection is unnecessary and will in fact create opportunities for the

railways and trucking companies to cause trouble with our members' bargaining rights.

Our interest in this matter is made necessary because of the railways' stated purpose of creating low-wage ghettos in the transportation industry through the medium of short-line railways. Short lines have become common in the United States and are typically low-wage, non-union operations. How they work is that railways sell sections of track to the short line, usually after abandoning service along those tracks. The new company then operates a railway that feeds freight cars to the larger roads, and does this by using cheap labour. Both CN and CP have high hopes that this practice will catch on in Canada.

For TCU members employed on the railway, it raises the prospect of seeing good, industrial wage level jobs disappearing and being replaced by minimum wage jobs. This is the vision of Ontario's future that the NDP has specifically rejected.

The proposed amendments, subsections 64.1(1) and 64.1(2), offer the kind of protection that rail workers need to defeat these schemes. However, 64.1(3) creates the possibility of the railways raising obscure and mischievous arguments to get around the effect of providing successor rights.

Ministry spokespersons have advised that the real purpose of 64.1(3) is to allow the board to consolidate bargaining units. However, section 18 of the Canada Labour Code gives the railways abundant clout to accomplish that, and they are using it with gusto. Introducing another kick at the can for the employers at a time when the railway passes from federal to provincial jurisdiction could mean that union members would have to go through a double set of stressful, expensive proceedings. Any changes that the new employer, the short line, would like to see effected could better come about through the medium of collective bargaining.

Having stated our objections to this particular subsection, may I conclude that overall section 64.1 is a major advance for the rights of transportation industry workers. Short-line operators in the United States who have been casting greedy eyes on Ontario rail trackage, seeing in its vast resources of cheap labour, will be frustrated by this measure, but we contend that this is exactly the kind of fly-by-night operator who needs to be frustrated.

The TCU wishes to congratulate the government of Ontario for demonstrating the courage to bring these amendments to Bill 40 forward at a time of considerable economic difficulty in Ontario. We readily acknowledge that a relentlessly loud and long opposition campaign on the part of the province's existing, and in some cases hastily created, pro-business and anti-labour lobbies has made the task of implementing meaningful labour law reform that much more difficult.

We would very much appreciate the committee giving every serious attention and consideration to our arguments on successor rights, which would help to ensure and maintain the quality standard of living which our members currently enjoy in the rail and trucking industries.

In spite of the compromises that have been made in this legislation, we view Bill 40 as a serious effort that will

help working people in Ontario to maintain and advance their standard of living and quality of life. For that reason, we support the bill and wish it speedy passage at Queen's Park.

Finally, on behalf of the Transportation-Communications Union, I would like to thank all members of the resources development committee for taking the time to listen to our concerns.

**The Vice-Chair:** Thank you very much. Questions?

**Mr Hayes:** Thank you for your presentation. It was very informative, maybe from a different perspective than some of the others. One of the things you did not mention—I didn't notice it, anyhow—was the deregulation of the trucking industry. I know there's fear about how this piece of legislation will affect our economy and jobs, but could you tell me, would this legislation have a positive effect on the workers you represent or potential workers you could represent, as much as deregulation has had an adverse effect on the workers you represent?

**Mr Bujold:** Number one, deregulation has totally devastated the trucking industry. Actually, today and for the last week or so, we've been in negotiations with CP Express and Transport where we have some 3,200 employees. Unless we can come up with the same kind of creative package that was put together with Algoma Steel, that whole company's gone, and deregulation's done it. They just can't compete across the border, and we are now sitting down trying to put together a package much as Algoma Steel did.

What this legislation would do for us is mostly in the area of organizing and in successor rights. When you talk about the railway right now, you're looking at employees who need an average of 20 years to hold gainful employment on a railroad. These are employees who have worked there for some 20 years.

The experience of the railways in the US is that they've all gone short-line, and when they short-line the railway, the prospective buyer puts a number of employees on that road, non-unionized, cheap labour, and runs the road until it can't run any more. It's too expensive to replace, so they apply to the government for abandonment. The only alternative the government would have is to furnish the money to upgrade the road, so they grant them the right to close the railway, then it becomes real estate.

I believe that's what's going to happen in Canada. The railways are looking for freight that's going to move from one end of the country to the other. That's where the money's at. They're not interested in short-line. However, to be a viable railroad you still require the short line, and without successor rights, if the national roads create these short lines, we're nowhere. We're going to be in a steady battle.

**Mr Hayes:** Here's another quick question. There's a lot of talk by people who are opposed to this particular legislation that it tips the balance of power too far towards the unions in this province. Do you feel there's a level playing field, which we hear quite a bit, or how far do you think amending Bill 40 would actually tip the power towards the unions in this province?

**Mr Bujold:** I think Bill 40 goes a long way to putting us on the same level playing field. As I said in my brief, when we were approached to unionize the employees in Thunder Bay we signed up 40 cards, which didn't give us a majority because they fired three employees. There were 70-some employees; however, the outcome was that only 43 were eligible to vote. By the time we ironed out the three people who were fired, by the time that whole process went through all the necessary channels, there were only 43 employees left. When they conducted a vote, there were only three who wanted the union. These employees approached us to be unionized.

**Mr Offer:** Thank you for your presentation. I think it deals with a very important aspect contained within the legislation, and a very complicated area, for myself, at least.

My question is on page 9 and 10 of your brief. You've spoken about the trucking industry as an example, and you used RPS as a large trucking fleet on one side, Canpar as something less than large; RPS is not unionized, Canpar is; RPS is going to be coming in and taking away business from Canpar, which may have the result of some employees of Canpar who are unionized moving over to RPS. To me, there is no transfer in this example, so the area of successor rights is absolutely not addressed in the legislation. I'm wondering if that's your reading of this. If not, I certainly would like to get some help from ministry officials, because it's my sense that if the two entities in your example, RPS and Canpar, remain in existence but employees of one move over to another, they don't take any rights with them. There has been no transfer which triggers successorship.

1620

**Mr Bujold:** It's a little ambiguous, but I'm sure I can clear it up. Number one, I guess what I'm referring to is successor rights from federal to provincial. If you look at the gist of the whole thing, I'm also talking about Canpar. It's been announced today that Canpar is up for sale. Again, I do apologize; it is ambiguous. If you go to page 10, we had a situation which I feel is going to happen at Canpar. Canpar is up for sale and I believe RPS may be a serious buyer for Canpar. I follow that with the example of Trimac. When I read it, I wasn't sure that I wasn't putting it in a sense that is somewhat ambiguous. But my feel of it is that when CP Express and Transport put its bulk systems up for sale and Trimac bought them, Trimac just split them up into provincial companies. There's where the successor rights would have allowed us to continue representing the employees. That's what I mean by that.

**Mr Villeneuve:** You put a lot of blame on employers preventing unions from being created and what have you, almost to the point where employers have been devious. Would you go that far, saying that there have been some devious people here who have caused things to occur that were either almost illegal or unethical?

**Mr Bujold:** We are in an international union and we've got 100,000 people in the US. When you talk about the railroad, you wouldn't believe how many short lines have been created in the US and done exactly that. The



thing is, in Canada it hasn't happened yet, but I've been around the railroad industry long enough to know that the railways will short-line. Everybody's well aware that the railways are very opposed to it; they would not view successor rights from federal to provincial jurisdiction for the simple reason that it would not be attractive for anybody to buy a short line under those circumstances.

**Mr Villeneuve:** Do you represent the grain handlers at Thunder Bay?

**Mr Bujold:** Yes, we do.

**Mr Villeneuve:** There was quite a lengthy strike there some years ago during the shipping season. I am a grain producer and certainly heard from many grain producers. One of the problems is that the price of grain right now is probably only at 60% what it was 10 or 12 years ago. Grain may increase, but you can't go to the well when there's no water. That's part of the problem. Do unions consider this when they go on strike? They stop moving grain. Thunder Bay is only open for a short period of time throughout the year and yet they were killing the goose that lays the golden eggs for them.

**Mr Bujold:** The Thunder Bay situation would require far more than the 15 minutes that I came here prepared to discuss in view of Bill 40. But let me say to you that we have 3,200 people working for CP Express and Transport. We've viewed the books of the company. We have been sitting down for over two weeks. We have a collective agreement up for renegotiation, and we're renegotiating and looking at concessions because that company's gone. So no, in that light.

I could defend the grain strike in Thunder Bay, but not in 15 minutes, nor am I prepared to do that. I didn't bring anything with me.

**Mr Villeneuve:** You'd have a little problem defending it with the farmers who produced the grain. But that's a story that's a basic principle.

**Mr Bujold:** Yes.

**Mr Villeneuve:** It's been suggested from time to time that when there is a lockout at a certain company, that company should not be able to use outside labour, but when it's a strike, legitimate or otherwise, there should be some consideration for outside labour because that is a different situation than a lockout. Would you give that any positive consideration?

**Mr Bujold:** Help me out. I lost you somewhere.

**Mr Villeneuve:** When there is a lockout, it's been suggested that the company, because it locked out the employees, not be allowed to use any outside labour—management, if it can operate, but no outside labour; and if there is a strike by the workers, legal or otherwise, the company should be allowed to continue the operation because, if indeed it is not able to continue the operation, the workers who are on strike will not have a job to go back to. The company will be gone. Could you give that some consideration?

**Mr Bujold:** It would depend on the circumstances. We represent 20-some employers. I've just come off a year and a half of negotiations, and I probably negotiated 12

contracts. Some of them I would have put on strike and some of them I wouldn't; it depends on the situation. I couldn't just give you a flat answer. It depends.

**Mr Villeneuve:** One final question: Bill 40 is supposed to bring employer and employee closer together. From sitting on this committee—and I've only sat yesterday and today—I have grave doubts about that. I want your opinion.

**Mr Bujold:** I go by my submission. I cannot see how a company the size of CP Ltd, with the railway it has and the trucking companies it has, can wind down and get away without providing that membership with negotiated settlements. The whole thrust of my submission is on the successor rights. It's devastating; it's killing us. We went through it with Trimac; we were all over the country. These employees were in turmoil. The end result was that we got them anyway, but it's total chaos.

**Mr Villeneuve:** And this will improve it?

**Mr Bujold:** Sure will, on successor rights.

**The Vice-Chair:** I thank the Transportation-Communications Union and each of you for taking the time to be here this afternoon and present your views.

#### CANADIAN TIRE DEALERS' ASSOCIATION, OTTAWA VALLEY DEALER GROUP

**The Vice-Chair:** The next group is the Canadian Tire Dealers' Association, Ottawa Valley Dealer Group. Welcome to the committee. You've been allocated a half-hour to present your views. I know all members of the committee would like some time for questions and answers, so if you could allocate part of that half-hour to allow for that dialogue I think we'd all appreciate it. Could you begin by introducing yourselves and then proceed with your presentation at your leisure.

**Mr Des Keon:** Thank you. My name is Des Keon. I am a Canadian Tire associate dealer in Bell's Corners, Nepean; I'm also the chairman of the Ottawa Valley dealers' association representing some 30-odd dealers between Kingston, Cornwall, Mont Laurier and Buckingham.

**Mr Gord Reid:** I'm Gord Reid, dealer at Base Line and Clyde Avenue here in Ottawa.

**Mr Rick Nelles:** My name's Rick Nelles. I'm the dealer at Kent Street here in Ottawa.

**Mr Keon:** First of all, I'd like to compliment you on your punctuality. We were on the elevator, I think, at 4 o'clock and we missed our time slot.

We have a presentation that'll maybe take 10 to 15 minutes, so I'm sure there'll be ample time for any questions from the group.

1630

As you are aware, each Canadian Tire store is individually owned by an associate dealer. We're all independent businessmen, not managers. We are proud of our reputation as progressive employers and, I think, have created a decent and a good place for our employees to work. The government has no monopoly on wishing a fair deal on employees. We are not anti-union; we just believe that a

good relationship between employees and employer can be created without the intervention and cost of a union.

We are proud of our employee benefit package, which has been created on a cooperative base by a large number of dealers and provides one of the best employee benefit packages in the retailing industry. Our commitment to profit-sharing demonstrates our commitment to a fair deal for employees. We believe that the Canadian economy is better off by motivating employees to create a bigger pie than it is by promoting union-management negotiations over who gets the biggest share of a constant-sized pie.

There are four areas that concern us with the proposed legislation. Number one is the elimination of petitions. Under the current rules, an employee who signs a union card under peer pressure can change his mind and write in a petition to the labour board. The labour board currently scrutinizes these petitions with extreme care to make sure there is no improper employer influence.

There is consumer legislation allowing a customer who agreed to purchase, for example, an encyclopaedia to change his mind. Similarly, we think we have a very liberal refund policy in our stores. I'm saying here that if a customer comes in and buys a chainsaw today, takes it home and decides that perhaps he would like something different or doesn't need it, he brings it back and we refund him his money, no questions asked.

The elimination of petitions would mean that once an employee has signed a union card, possibly under the influence of a few drinks in a beer hall, and maybe under extreme peer pressure, he effectively cannot express his change of mind to the labour board. We think that is totally unfair and we don't understand the reasoning behind this.

Our second concern is easier first-contract arbitration. Today, if an employer commits an unfair labour practice, the labour board can and should impose an arbitrated first contract as a proper remedy. The amendments would allow the labour board to impose an arbitrated first contract even where the employer has done nothing wrong. All that is required is the passage of 30 days from the legal strike deadline, with or without a strike actually occurring. We think this is unfair. This does not promote collective bargaining; it promotes government interference with collective bargaining. An arbitrator who doesn't have to meet the payroll can determine where the pay rate should be.

Our third concern is the elimination of separate bargaining units for full-time and part-time employees. We are major employers of part-time employees. Today the labour board would certify full- and part-time employees in separate bargaining units, recognizing that each group has a separate community of interest. Our experience confirms that for the most part part-time employees want only part-time work. Many want to work only certain days or certain hours of the day. Many are students who want to earn spending money and are not expecting to support a family, whose interest is in getting a first job, not in establishing a career in retailing.

A collective agreement which would force us to treat part-timers the same as full-timers would quickly put us at a competitive disadvantage with the non-union retailers—and there will always be non-union retailers springing

up—and eventually threaten the employment security of the entire group. We're concerned about dissension developing in our store over the debate between full-timers and part-timers caused by their disparate objectives and interests.

Our fourth concern is the prohibition on replacement workers during strikes. Striking employees would be free to go and work somewhere else during the strike. This distorts the balance of power, since management would not be free to continue to operate.

This could force unemployment on other employees, for example, if our retail workers were on a strike that would stop the sale of new tires and batteries and the ability to get parts for our service centre, thus putting the technicians out of work even though they were not involved in the original negotiations.

Worse still, if our distribution centre or the Canadian Tire trucking network were on strike, the inability of management to continue to operate during the strike would put some 30,000 Canadian Tire dealers' retail employees out of work within a week.

Similarly, a strike by Hydro employees, Bell Canada employees or municipal snowplow operators during the wintertime in Ottawa could put not only our employees but thousands of others in Ottawa out of work if management of those other organizations was unable to keep operations going.

The government's major premise seems to be that workers are not getting a fair deal and these amendments are necessary to correct that unfairness. We disagree. When you go shopping in the US, you find that Canadian retail employees are a whole lot better off than American employees already. Similarly, we've just come through nine years of prosperity in Ontario. What's so bad about the system we now have? Just at the time when Ontario industry and commerce are hanging on the ropes, this legislation is another punch in the stomach from employers who are having enough trouble already.

Outlying examples of multibranch locations with excess capacity may see this legislation as the straw that breaks the camel's back, with the result that they close the Ontario plant. We know of numerous examples of that. Conversely, those few employers who are looking at where to place new investments would have to think twice about investing in Ontario, with the threat that not only is it easier to unionize, but some bureaucrat will dictate the first collective agreement, and after that, the union's bargaining power will be way out of balance because of the prohibition on the use of replacement workers.

As I said earlier, we are not anti-union, but we believe some of the proposed legislation will greatly impact the retail industry. We're suggesting that the present proposed legislation be changed to correct some of what I think are inefficiencies in the labour laws we now have and the proposed labour laws this government is introducing. Thank you.

**The Chair:** We have seven minutes per caucus. Mr McGuinty, please.



**Mr McGuinty:** Thank you, gentlemen, for your presentation. I'm not clear. Is there any unionization to any degree right now at Canadian Tires?

**Mr Reid:** I think at any time there are very few. There are always some, but there are not very many.

**Mr McGuinty:** With respect to your own stores, have there been any efforts by employees to organize?

**Mr Keon:** In my particular store, no.

**Mr McGuinty:** And the others?

**Mr Reid:** No.

**Mr Nelles:** No.

**Mr McGuinty:** Why not?

**Mr Nelles:** What was the question again?

1640

**Mr McGuinty:** Have there been any efforts on the part of the employees to organize?

**Mr Nelles:** No, there's been no effort on the part of the employees to organize because we all have better relations committees. We have groups of people who have gotten together and we work on a continuing basis. Our employees appreciate the benefit package we have in place for them. They understand what profit-sharing is and they understand what business is all about today, so they feel quite comfortable working in the environment they have. They don't see the necessity to have a third party come in and try to regulate them and tell them how to interact between the employer and employees.

**Mr McGuinty:** During the course of these hearings, as you may be aware, many people advanced the argument that you simply cannot have fairness extant in the workplace unless you have a union-management relationship. You're telling me, obviously, that this is not true and that you constitute a blatant exception to that.

**Mr Nelles:** I don't think we're the only blatant exception. I think there are lots of companies out there today that have the same kind of labour relations Canadian Tire is proud of.

**Mr Keon:** I attended the hearings back in the spring when Mr Mackenzie was in town, over at the Delta Hotel. It was suggested at that time by our group that we think the government's efforts in promoting employer-employee relationships would certainly go a long way, and its efforts would be much better spent, in promoting a type of profit-sharing atmosphere that we have in our stores. We believe that when the employee has a share of the pie, his motivation and his interest in the job are that much better. Obviously our message went unheard.

**Mrs Yvonne O'Neill (Ottawa-Rideau):** Gentlemen, in my experience I do feel that Canadian Tire employees, whether I meet them in Nova Scotia or Ottawa—the store on Clyde is in my riding—are proud of their jobs. I also am going to compliment you because I think they know the products they sell. I don't think that is characteristic of every retail outlet I frequent.

I have a lot of difficulties, as you do, with the concept of part-time and full-time being grouped into one collective bargaining unit. I know many of your employees are

first-time employees. I think the training and experience you give is invaluable.

I wonder if you could say a little bit about access to benefits—I'm not aware of any access to benefits your part-time may have—and any tenure guarantees they may have. In other words, I'm asking you, beyond what I've just asked, do you have any what we call permanent part-time, people who choose to be part-time employees but you consider continuing employees? Would you say a little bit about that?

**Mr Reid:** We do. We have quite a few who do work on a part-time basis but have worked for years that way, who are kind of secondary wage earners. That is their choice and they have the same benefits as the regular full-time people.

**Mrs O'Neill:** So they have access to all the benefits the full-time do. I'm talking about health and—I don't know what benefits your company offers. They would have a tenure guarantee?

**Mr Reid:** A tenure guarantee?

**Mrs O'Neill:** Yes. The permanent part-time would have, what should I say, the security of knowing that their job would be there as long as the store was—

**Mr Reid:** As long as they perform, yes.

**Mrs O'Neill:** So it would be a performance review. Thank you very much. That's helpful.

**Mr Offer:** Thank you for your presentation. I stand to be corrected, but I don't believe that under the Labour Relations Act or this bill the word "employer" is actually defined. For your situation as owners, are you franchised or is it more of a singular type of ownership?

**Mr Nelles:** It's like a franchise; we are the owners.

**Mr Offer:** The reason I ask is because under the legislation, there is a provision where bargaining units could be combined, one union with one employer. I believe there is the possibility that if each of your stores were organized separately, an application could be made under this provision of the bill where they would all fall under the definition of one employer if the board decides. I see the gentleman on the right shaking his head. I don't want to heighten your concern, but I think that's a reading of the legislation. Could you share with us what your thoughts would be on that taking place?

**Mr Reid:** I just can't figure how that could happen. We all execute our employee policies differently. It's an individual thing. In the area of employee relations, human relations, we are very independent. Our relationship is because we buy from the same company, Canadian Tire, but other than that, all of our practices with our employees are quite separate and different from each other.

**Mr Offer:** I take it from that that you would be very much opposed to any reading of the legislation or any use of this bill that would permit the combination of those units of each of your employees in one unit?

**Mr Nelles:** Definitely.

**Mr Villeneuve:** Gentlemen, thank you for being here. I'm going to attack this from a slightly different area. You

people represent Canadian Tire stores up to Pontiac over in Quebec?

**Mr Keon:** They are in our region, yes. We don't represent them, though.

**Mr Villeneuve:** So they're in your region. This committee's been told that the anti-scab law which came into Quebec in about 1978 did great things for harmony and all the rest of it. We know that the percentage of capital investment in Quebec since that time as compared to Ontario has been considerably less, but no one puts too much emphasis on that. Would you be able to observe, from your operations here in the Ottawa Valley on the Ontario side of the Ottawa River, how the anti-scab provision in this great labour law over in Quebec would possibly have affected Canadian Tire stores?

**Mr Keon:** I guess we haven't had anything in our region that has happened since then that I could comment on. There have been some down in the eastern part of Quebec, but I'm not familiar with them. There hasn't been anything in our region that I could comment on.

**Mr Villeneuve:** So you would say no positive but no negative; it's not that different from Ontario. Do they tend to be unionized over there?

**Mr Keon:** No.

**Mr Villeneuve:** I go from that to a suggestion that was made to the committee that when there is a management lockout of employees, the plant, retail outlet or whatever should not be allowed to operate with outside labour, but if it's a legal or an illegal strike, where the employees are the ones who are attempting to stop the operation, outside employees or the plant or retail outlet should be allowed to operate. I don't know whether amendments would be even accepted here. Could you accept that as a possibility of some labour reform?

**Mr Keon:** That was one of our concerns. In my presentation, point 4 was specifically that: If there were a strike, legal or illegal, the employees would be allowed to go elsewhere and work, but we would not be allowed to bring in replacement help. That is a concern of ours.

**Mr Villeneuve:** And it would address that concern of yours if the government were to consider this type of amendment?

**Mr Keon:** Right.

1650

**Mr Jordan:** Thank you, gentlemen, for taking time to come out this afternoon. I was wondering how you feel about the process that the government used to develop Bill 40.

**Mr Reid:** I guess we've come here thinking that nobody's going to listen anyway. There's not much hope, but we're here anyway. I guess our impression of how this has developed is what we read in what you people may call the conservative press. This is in deference to the unions, which put the NDP in power, and that's why we're here. That's the way I feel.

**Mr Nelles:** We feel we're just going through the motions, all these things people are trying to say to the

government. What we're trying to do is to pull this thing out of the fire to save this province of ours, but it's "Damn the torpedoes, full speed ahead," so all this work we're doing, all this time we're spending, all these people who are sitting in this room are accomplishing absolutely nothing, because the agenda has been made. That's my feeling as a businessman today.

**Mr Jordan:** Do you feel that the bill should be held and that we should proceed with further consultation?

**Mr Nelles:** I don't know if it would accomplish anything. That's the problem with our economy today: All we do is spin our wheels. We've got some serious things out there. We have to be able to compete in the world market today, and if all we're going to do is sit around here and spin our wheels and play games with one another, we're not getting to the root of the problem. We have to learn to get along with one another and get this country moving. We can't do it sitting here spinning our wheels.

**Mr Jordan:** What do you see Bill 40 doing to your business?

**Mr Nelles:** I feel good about the relations I have with my employees. All I'm saying is that I'm concerned about what's going to happen to this province. There are a lot of people out there who come to my store to buy merchandise. If they lose their jobs because business doesn't want to come to Ontario to start up and a lot of companies are going to go out of business, nobody's going to be able to spend money in my store. A lot of my good people who worked hard to make something in our business are not going to be—we may have to make some tough decisions about cutting back. What bothers me is what effect it's going to have on the province as a whole.

**Ms Sharon Murdock (Sudbury):** Thank you for waiting, despite our punctuality.

I want to continue beyond Mr McGuinty's question in terms of your own experience. We have Canadian Tires in Sudbury too. It's a great place to shop, and all of us know them well. If, from Mr McGuinty's question, your relationship is good and you feel happy with the working relationship you have, and if under the existing legislation your full-time workers could organize and they haven't made any move to do so, why would you feel Bill 40 is going to change that? If they can do it now and haven't done so, why do you think Bill 40 is suddenly going to make them want to do it?

**Mr Nelles:** As I said, I feel comfortable with what's happening in my store right now. All I'm concerned about is what's happening to Ontario. The unions have a different agenda. As far as I'm concerned, they see this as a golden opportunity to make up for all the losses that have been happening in the other parts of their industry. They see the retail sector as being a prime objective and they're going to go after it, regardless of what it's going to do to that company. They could put the company right out of business. I'm really concerned.

**Mr Keon:** Could I ask you the same question? Why, in a province that has had such great prosperity in the last 25 years, do you want to change things? Why does the government want to change things?



**Ms Murdock:** You're giving me a great opportunity, actually. I don't often get it.

**Mr Nelles:** We only have 20 minutes.

**Ms Murdock:** No, we don't even have that, actually. In the retail sector especially, you probably would recognize that the workforce has changed dramatically, evidenced, as you've already stated, by the fact that a lot of part-time workers have entered the workforce, most of whom are women.

At present, under the existing legislation, about 70% of all workers in Ontario have access to the Ontario Labour Relations Act and 30% have utilized it. It only applies to workplaces that have collective agreements. What this legislation, Bill 40, is going to do is open it up so that about 90% of workers will have access to choose to join a union if they wish to. If they're happy, contented and satisfied with whom they're working for, then in all likelihood they won't even bother asking to join a union.

In our experience thus far, if you look at the Labour Relations Act over the past 40 years, the only ones who generally ask to join a union are those who are having problems with their particular employer. I don't see that suddenly changing overnight. I know there is a tremendous fear. I hear it in your voices. I've heard it in the past three weeks of presentations. We've actually had it said by some small employers that suddenly their place is going to be organized the day this passes, which is not the case.

**Mr Reid:** Could you explain, then, why you would stand up for this elimination of the petition? We have had attempts here and there; after a while, unions have come in and gone out. But with this sort of thing, you don't allow people a second thought.

**Ms Murdock:** We do. I know we've had the consumer argument used. If I, as a worker, sign a union card, I have right up until the day of the application to notify the board that I want to change.

**Mr Reid:** Under the proposed?

**Ms Murdock:** Under the proposed. I can change my mind during that time of organizing. Now, once the application is notified to the board, once you've asked to be certified, that's the closing date and I can no longer change my mind after that date.

**Mr Keon:** Excuse me, that's not the way we're interpreting it.

**Ms Murdock:** I know that. I was going to look at that.

**Mr Keon:** It should be made clear, then, in the proposed legislation. That's not very clear out there, because that's the way most employers are interpreting this.

**Ms Murdock:** I know. That's the whole purpose of coming to these consultations. I know we have heard that it's a sham and it's a waste of time, but it isn't. It's fine-tuning. That's what this is. I will make no bones that Bill 40, in some form, is certainly going to pass; it won't be by Thanksgiving, unfortunately. But that's the whole purpose of listening to this.

The other point I wanted to get to was that you came before Mr Mackenzie in January or February. I was here the next day, having read all the submissions we had, and

there were many. One of the things you stated on the discussion paper was, first of all, you didn't like the idea of replacement workers, but you really didn't like the idea of supervisory personnel being included in a union or having the right to join. We have made a number of changes based on your submission and others, predominantly by employer groups. I just wanted to comment on your fourth concern, in that we did make changes and we were listening. We're listening again. I believe it was Mr Reid who made the comment that I take exception to.

**Mr Reid:** You do?

**Ms Murdock:** Yes.

**Mr Reid:** You are listening now?

**Ms Murdock:** I certainly am. I hear every word you're saying. My other colleagues would like to ask a question.

**The Chair:** You've got 30 seconds to do some talking and listening. Anybody else?

1700

**Mr Hayes:** Just to add to what Ms Murdock was talking about, why we're putting in certain pieces of legislation to make it easier or to give workers a choice of joining a union. There have been specific cases where employers have intimidated or coerced or fired people even when they indicated that they wanted to join the union. These things have happened. If you go through the process of getting the people back to work, it drags on and costs both sides lots of money. We have had specific cases, lots of specific cases, that—

**Mr Reid:** Probably on both sides.

**Mr Hayes:** Well, to eliminate it happening on either side, this certainly will help to streamline the process.

**The Chair:** I want to tell the Canadian Tire Ottawa Valley dealers' association thank you for coming here. You represent a significant retailer in the province, obviously with coverage across the province. We appreciate your interest in the legislation and your eagerness to come forward and share in this process. We're grateful.

**Mr Reid:** Thank you.

**The Chair:** I understand that Mr Dean wants to respond to some issues put to the Ministry of Labour. Mr Dean, accompanied by Mr Kovacs, Esq.

**Mr Tony Dean:** Thank you, Mr Chairman. I'd like to respond to a two-part question that I understand was asked last week. It relates to the purpose clause. As I understand it, the question that was asked was, would the proposed purpose clause—which is a new section 2.1 on page 2 of Bill 40—result in the labour relations board ordering the disclosure of employees' names and addresses and/or the disclosure of financial information?

We do not expect or anticipate that the purpose clause would have this result, that it would result in the board ordering disclosure of employees' names and addresses for organizing purposes or ordering the disclosure of financial information.

I should add that consideration was given in the policy development process to specific proposals that might

accomplish each of those objectives, and they did not emerge and form part of Bill 40. In particular, a proposal on access to lists for organizing purposes was outlined in the November discussion paper and, as a result of the consultation process, was dropped and did not appear in the bill.

**Mr Jerry Kovacs:** Again in response to a question posed last week during the sittings in London, the question was whether the provision of food services to patients in a hospital would be affected by the sections governing the permitted use of specified replacement workers.

By way of general explanation of the functioning of those provisions, I'd point the committee to proposed section 73.2, at page 25 of Bill 40. It may be useful to note that subsections 73.2(2) and 73.2(3) set out the two different sorts of circumstances in which specified replacement workers may be used in workplaces during a strike or lockout.

Subsection 73.2(2) might generally be described as special workplaces in which specified replacement workers may be used.

Subsection 73.2(3), in contrast, applies to all workplaces and describes special circumstances in which the use of specified replacement workers would be permitted in accordance with the bill.

In the particular example that formed part of the question, I would point to subsection 73.2(3) and suggest that the question is whether the provision of food services to patients in a hospital is a service that should be provided, and I quote from the wording of subsection 73.2(3), in order "to enable the employer to prevent danger to life, health or safety."

Having reviewed those sections, it might be, in fact, more appropriate for government members of the committee to comment on whether that specific example falls within the government's intent of that subsection 73.2(3).

**The Chair:** Ms Murdock, do you want to—

**Ms Murdock:** With regard to patients in a hospital, obviously the intent of the government would be—

**The Chair:** Knowing, Ms Murdock, that what you say now may well be relied upon down the road.

**Ms Murdock:** Certainly. I haven't got a problem with considering patients in hospital being fed as anything to worry about in the future. The intent of the government is that they would be considered under the essential services provisions of section 73.2.

**The Chair:** Do you say that as parliamentary assistant to the Minister of Labour?

**Ms Murdock:** I say that as parliamentary assistant to the Minister of Labour.

**The Chair:** And on behalf of the government of Ontario?

**Ms Murdock:** Yes, Mr Chair.

**The Chair:** As if Bob Rae himself were sitting here?

**Ms Murdock:** As if he were, yes.

**The Chair:** Gentlemen, does that complete your comments on these two issues?

**Mr Kovacs:** It does, yes.

**Mr Offer:** On that very point, that would mean that in a hospital setting, a cafeteria, there are two issues that immediately emerge. If there are prepared foods which are delivered to the hospital for redistribution throughout, you are saying that if there were a strike at the provider, it would still be able to get the food in? Or are you saying that the cafeteria within the hospital, could not go on strike? I'm just trying to figure out where it sort of pigeon-holes.

**Mr Kovacs:** I'd point you again to the wording of subsection 3. The focus is on the actual employer. You've given an example of two different sorts of employer; none the less, in either case the question would be whether it was necessary for that employer to use specified replacement workers so as to prevent danger to life, health or safety. Whether it applies in each case, it remains a matter for the board to interpret, in accordance with Ms Murdock's suggestions, I would think, of what the government's intent is.

**Mr Offer:** Following that, it says that if there's a cafeteria in a hospital, it would be allowed to strike. They're not excluded from striking, from withholding services.

**Ms Murdock:** I don't think it's their role to answer that kind of question.

**The Chair:** I trust that Mr Kovacs's silence indicated a whole number of things and indeed spoke volumes. Need we say more? Mr Offer suspects, and that's where it stands right now. Am I correct in that?

**Mr Kovacs:** Yes, thank you.

**The Chair:** Okay. We are recessing until 6:30 this evening, at which time the Canadian Business Forms Association and Canadian Book Manufacturers Association are going to be here.

The committee recessed at 1708.



## EVENING SITTING

The committee resumed at 1830.

## CANADIAN BUSINESS FORMS ASSOCIATION

**The Vice-Chair:** Okay, we'll reconvene. I assume this is the Canadian Business Forms Association. Identify yourself for the purpose of Hansard and then proceed with your presentation. You are allocated about a half-hour, and if you could leave some time out of that half-hour for questions and answers from the committee, they'd appreciate it.

**Mr Albert Lacroix:** Yes, Mr Chairman. My name is Albert Lacroix. I am the executive director of the Canadian Business Forms Association. My colleagues with me this evening are Christine Pascoe, human resources specialist for Reynolds and Reynolds Canada Ltd; Grace Streek, human resources specialist with The Print Key Inc, and Ray Coutu, director of public affairs, Canadian Printing Industries Association.

We very much appreciate the opportunity given to us this evening to meet with you. Although the CBFA is a national trade association, representing the interests of business forms manufacturers across Canada, our purpose this evening is to specifically express the concerns of the Ontario business forms community regarding the proposed amendments to the labour relations legislation contained in Bill 40.

I assure all of you that the views contained in our presentation are very much shared by all business forms producers nationwide. Before getting to the gist of our presentation, I'd like to take a very few brief moments to comment on our industry and its important contribution to both the Canadian and the Ontario economies.

The Canadian business forms industry is a major contributor to the economic wellbeing of Canada. More than 10,000 Canadians are involved in all aspects of business forms design, manufacture, marketing and sales and forms management systems. The industry's annual sales volume exceeds the \$1.2-billion mark and represents close to 20% of the output of the Canadian commercial printing industry.

The greatest concentration of business forms manufacturing activity is located in the province of Ontario. Annual sales from Ontario firms are more than \$600 million. Approximately 5,100 Ontario workers benefit from employment in the industry. It should also be noted that business forms manufactured in Ontario are sold to customers across Canada as well as those in the US and other foreign markets. However, the ongoing recession has severely hampered the operations of the Ontario business forms producers, and it is this industry's view that Bill 40 will in no way improve the situation. If anything, it will probably aggravate it.

The main objective of any legislation pertaining to labour relations should be to create industrial harmony in the workplace, thereby establishing an environment where significant economic and social benefits are derived by all stakeholders: employees, employers, governments and society in general. Such legislation should also

establish a climate which would generate substantial new investment and create badly needed jobs.

The proposed amendments contained in Bill 40 will not in any way enhance relations between employees and employers, nor will they improve the economic and social standing of citizens of Ontario and, last but not least, will not create any new employment. In fact, in our opinion, if implemented these initiatives would cause severe and long-standing damage, not only to labour relations but to Ontario's economic climate as well. We also feel that some deterioration of this climate has already begun as a result of Bill 40.

Ontario business forms manufacturers are very much concerned that if implemented, the proposed amendments will seriously infringe on the inherent and democratic rights of individual workers and employers. We refer to freedom of choice, civil liberties, private property and other basic democratic principles.

We have grave misgivings about the purpose clause of the act. It seems to us that it strongly insinuates that under current conditions workers in Ontario cannot freely exercise their right to choose, join and be represented by a trade union. It also insinuates that improved conditions, adaptation to change, skill development, harmonious labour relations, industrial stability and effective, fair and expeditious dispute resolution for Ontario workers can only be attained through unionization. This tenet is not only false, but we feel is completely irresponsible as well.

Currently, workers have the right to unionize or not to unionize. Additionally, there currently exists a fair and effective mechanism that allows a worker or workers to openly oppose union certification in the workplace. The proposed amendments would facilitate unionization to such a degree as to completely negate an individual worker's right to choose not to unionize.

First of all, it is proposed that the percentage of union support required before a representation vote takes place be lowered from 45% to 40%, and that the minimum signing-up fee of \$1 be eliminated. We do not agree with these proposals.

Second, the mechanism to oppose certification has been so drastically altered as to render it, to all intents and purposes, completely useless. Henceforth, workers who after due consideration wish to retract their support for union certification must do so prior to the union's request for certification. This will be rather difficult to do if certification is requested only hours after having signed up the appropriate number of employees.

The net result would be that workers, whether full-time or part-time, would have less protection against unscrupulous union organizers than a customer from a door-to-door salesman. At least the latter under the law has three days to evaluate his or her decision to keep or return the vacuum cleaner or any other products purchased.

We submit to the committee that if one has the right to associate, one also has the right to disassociate and to make one's views known publicly on this matter. We cannot

condone any legislation which would eliminate this basic democratic right.

Everyone has a legal right to work and earn a living. Bill 40 proposals would take away this democratic right during times of labour conflict. Bill 40 would make it unlawful for striking or locked-out workers or employees to voluntarily return to work if they so choose.

By implementing this initiative, the government would be committing a grave injustice to those persons this legislation is designed to protect: the workers or the employees. The only people this provision protects are the unions. The right to choose whether or not to return to work during a strike or a lockout belongs solely with the individual employee or worker, not with the employer, not with the union and certainly not with the government.

Under Bill 40, employers' rights would also be greatly violated. Employers would no longer have recourse to the court of law to restrict picketing or have protection of private property, as currently guaranteed by the Trespass to Property Act.

Additionally, the provision to allow union activities such as picketing and organizing on or near the premises of third parties would seriously affect the operations and the employees of any and all commercial-industrial enterprises situated near the targeted company.

There is no doubt that the aforementioned will have some effect on the employer's ability to operate his business. However, the most serious violation of an employer's rights, and the one which concerns Ontario business forms producers the most, is the provision prohibiting the use of replacement workers or striking workers during a legal strike or lockout. This is also undemocratic. We believe that an employer should have the right to use all the necessary and legal means at his disposal to continue to legitimately operate his business.

1840

Of great concern to us is the fact that while the employer is severely restricted from operating his business during a strike, similar restrictions are not imposed on the unions or on their striking members. Consequently, during a prolonged strike the potential exists for striking employees to start up their own business forms company in direct competition with the employer. Unable to operate without the appropriate human resources and unable to meet commitments to his customers, the employer would eventually be driven out of business.

In our estimation, the law and the government would be guilty of aiding and abetting the demise of a legitimate business enterprise. We do not believe the government has the right to implement legislation which would legalize unfair trading practices by a special-interest group.

We are also apprehensive regarding the provisions dealing with first-contract arbitration and contract tendering restrictions. With regard to the former, we fear that settlements would be imposed without due and proper consideration being given to the employer's ability to abide by these decisions. With the latter provision, it seems to us that the government has failed to consider the negative economic impact of this proposal, which would insulate inefficient operations from competition.

As an industry, Ontario business forms manufacturers contribute significantly to Ontario's economic and social wellbeing. Although the industry is not highly unionized, it has nevertheless over the years prospered, as have its employees. However, the industry, like other industries, is facing hard economic times. Over the past few years, industry profits have fallen drastically. To remain competitive in the new global economy, we need to invest in new technological manufacturing assets and train our workforce to effectively use this new technology.

We believe that implementation of the proposals contained in Bill 40 will further reduce our already low margins, affect our ability to not only maintain but improve our global competitive position and have a detrimental effect on badly needed new capital investment. Last but certainly not least is the fact that Bill 40 may, and probably would, increase union membership, but definitely would not create any new jobs.

In fact Bill 40 would in all likelihood drive new investment from Ontario to other jurisdictions without similar legislation, particularly to the United States, causing further unemployment among Ontario workers. Additionally, we can expect a considerable increase in labour strife as a result of Bill 40. This has been the experience of other areas with similar legislation.

Consequently, Mr Chairman and members of the committee, we urge you to recommend to the Ontario government that it seriously reconsider implementing this proposed legislation. Again, we thank you for having given us the opportunity of addressing you this evening, and very much appreciate your attention.

**The Chair:** Thank you. Five minutes per caucus. Mr Jordan, please.

**Mr Jordan:** Thank you very much for your presentation. I wonder on what basis you are at, say, 180 degrees with the minister here on the increasing of efficiency, production and so on. The ministry claims it has a study which says that following a company being unionized, production increases, efficiency increases and so on. How do you refute that?

**Mr Lacroix:** Mr Jordan, I haven't read the minister's report, and I apologize for not having done so. But the industry itself, as I mentioned in my text, has prospered over the years. It is a maturing industry right now. It is developing new markets, new production processes, and it has done so in spite of the fact that it is not a highly unionized industry.

I'm afraid I cannot give you numbers as to how many of the forms producers are unionized and which ones are not. These data are not available to us from our membership. But we do feel it would be impossible to have workers participate in a workplace environment where they would be members of a group, a union, an association of some sorts, against their will. In other words, if they want the job, they have to join a union. We do not think this is a good way of running a business. If any of my colleagues has anything else to say, I would call on them now on this question. Ray?



**Mr Ray Coutu:** In terms of a percentage of unionized labour in the business forms sector, it is quite similar to the printing industry in general and it hovers around the 30% mark.

**Mr Jordan:** You also note: "Additionally, we can expect a considerable increase in labour strife as a result of Bill 40. This has been the experience of other areas with similar legislation." Can you be more specific on that?

**Mr Lacroix:** In Quebec, sir, there has been an increase in labour strife and in strikes since the—pardon the expression—anti-scab legislation was brought into force, I believe it was in 1978. Unfortunately, I do not have the data with me right now, but I will gladly send them to the Clerk to back up our comments, if that is agreeable with the committee.

**Mr Jordan:** Thank you very much.

**The Chair:** Mr Ward, and then Mr Bisson if he wishes to.

**Mr Ward:** Then we can welcome him to the committee.

**Mr Gilles Bisson (Cochrane South):** Thank you.

**The Chair:** That's what I was doing, in a roundabout kind of way.

**Mr Bisson:** Thank you, Mr Chairman.

**The Chair:** That's just the kind of Chair I am.

**Mr Ward:** I'd like to thank you for your presentation. I think you represent your association well and it can be proud of the presentation that you've given today.

Part of the reason why our government feels it's important to move ahead with updating the existing labour act is, I think, that no one can argue that the workforce and workplace have changed drastically since the 1970s. In the 1970s—I believe it was 1975—was the last time the act was significantly updated.

We have heard presentations both for and against Bill 40, and I think the general thrust of the bill, part of it anyway, is to suggest that if a group of employees in whatever sector, whatever industry—if the majority of those employees make the conscious decision to say, "We feel it's necessary for whatever reason to be represented by a trade union," the intent of Bill 40 is to remove some of the obstacles which, we have heard through delegation and presentations, are in place under the current act.

You mentioned in your brief about the democracy and the democratic right of individuals etc. Would you support, if a majority of employees consciously wanted and made the decision to be represented by a trade union, that those obstacles be removed that we have heard about time and time again?

**Mr Coutu:** It depends on how you define "obstacles," and certainly, you know, there are always two sides to the same issue. Creating an environment where legislation will dictate what shall and shall not be done is a far cry from having employees choosing what they can or cannot do.

You brought up the point just a second ago about how long it's been since this legislation has been touched. I think the government's initiative in proposing changes to the labour act is rather timely. This whole country is faced with global competition, cheap labour. As of next year, or

16 months from now, we may have to compete with the printing industry in Mexico, and we all know what kinds of problems that may cause to the North American market.

1850

Getting back to your question, I don't think anybody disputes the fact that changes have to be made to legislation. As I said, we certainly commend the government for taking the initiative to bring this out in the open again and look at it, and this is exactly what we're doing today.

You mention obstacles that currently exist that you've heard from other groups. Perhaps you can share some of these concerns with us and we can most likely give you more specific answers to your questions.

**Mr Ward:** Thank you for that answer. I always try to find common ground, whether it's criticizing Bill 40 or in favour. I believe the intent of your brief is that the bill be withdrawn and reconsidered.

Three aspects of the bill—the ability of security guards to choose a union of their choice, the restriction of petitions and the amalgamation or consolidation of full-time and part-time bargaining units—are already in place throughout Canada. To find common ground, would you and your association support those three items that are in everywhere else in Canada and appear to be working?

**Mr Lacroix:** We've found in terms of some positive aspects of the bill. The just-cause provision was one of them and the other one was the provision to have within the collective agreements the consultation processes during the time of the agreement. I fail to understand the question on common ground, that the security guards can unionize, restrictions on petitions and the amalgamation of units from part-time and full-time.

**Mr Ward:** It's in everywhere else in Canada.

**Mr Lacroix:** I apologize for feeling that I don't know what the restrictions would be on petitions, for instance, in other areas of Canada. May I turn back the question and ask you, is what you are proposing similar to, the same thing as other areas of Canada?

**Mr Ward:** Yes, these three items are in existence throughout Canada, in every other jurisdiction.

**Mr Lacroix:** What are the restrictions?

**Mr Ward:** The ability of security guards to choose a union of their choice, restrictions on petitions and the amalgamation or consolidation of full-time and part-time bargaining units.

**Mr Lacroix:** I still have difficulty with the amalgamation of part-time and full-time employees. To my knowledge—and my colleagues on the other side of me may agree with me or may stop me if I'm wrong—there are very few part-time workers in our industry, to our knowledge.

**Mr Coutu:** It's not an issue.

**Mr Lacroix:** It's not an issue for us.

**Mr Ward:** It wouldn't be a concern then? If it's not an issue, it wouldn't be a concern.

**Mr Lacroix:** No, no, it's not an issue.

**Mr Ward:** Okay, good.

**Mr Lacroix:** As I said, the restrictions on petitions in other areas, regardless of what the other jurisdictions in Canada do in terms of this area, we feel strongly that the worker or employee should maintain the right to petition the board, as he can now, as opposed to signing something and all of a sudden finding out that he may, after considering it, say: "Well, maybe this is not right for me. I don't want this any more."

**Mr Offer:** Thank you for your presentation. I note that in your presentation you've gone through various aspects of the legislation.

One of the things we've been hearing throughout the hearings is that the changes lack a balance, that in any changes that have happened in terms of labour relations—I think it was one change in 1987, it's certainly not 1975 but 1987, a variety of other pieces of legislation—there's always been an attempt to balance the interests of both the employees and management. Now the government has come up with Bill 40, and I think there are something in the area of 32 recommendations for changes here and, the way we're seeing it, it looks like the score is 30 to nothing.

I'm wondering if you can help us out. Are there changes in here that you see would be helpful in the way you not only carry on your business but deal with your employees?

**Ms Grace Streek:** I'd like to answer that. I've been in this business for a number of years, in all aspects of business and in small manufacturing and relatively large manufacturing, and I've been very fortunate that I have worked for companies—and I'm sure there are companies out there that don't treat their employees fairly—but I have been very fortunate in working with companies that treated their employees fairly, that trained them, took them out of school. I have spent hours with staff in training programs, in help with government programs, to get these people out of school and train them into a job.

We do a salary survey in all the companies I've been with, with two companies every year, to make sure that their salaries are right. We ensure that their benefits are well taken care of and we talk to the employees: What do you want? Where are you going? Where are you coming from? Also, and particularly with the company I'm with now—I do all the hiring—I sit down with the individuals, I listen to them, we look at their skills, we hire them.

I have a great deal of difficulty in seeing that an employee doesn't have any rights if a union comes in. Supposing a union came into our company, then if I'm hiring an individual, and I may be getting a highly skilled individual who has been somewhere else—in today's market there are highly skilled people out there from our industry where their previous employer has gone down or moved out of town—he comes to us and one of the first questions that I'm always asked is, "Are you unionized?" We don't happen to be unionized, and the answer that I get most often is, "Good, because I wouldn't want to work for a union. I did it once."

Really, my feeling about life in this democratic society is that I have a choice and you have choice and I also have a right to work. I have a right to work and I have a right to

ply my trade. That is my answer to your question. I feel very, very strongly about that. When a union comes in and people go on strike and I want to work because it's healthy for me, because I have the ability, because I can offer something, I don't want to be the person that has to sit at home because they're out on strike.

I work not just for myself, I work for the company, I work for my children so I can teach them what a joy it is and what satisfaction, so they can become better citizens. I'm not going to be here for ever and neither are the people I hire, so I want them to feel good about themselves and feel good about their jobs. They get satisfaction.

That's one of the concerns that really bothers me if a union should come in. The employees I have turn up every morning and do the things they're supposed to do, and do it well. If they want to be educated they can go on and be educated. We promote that: We send them off to school for further education if they want it. We cross-train them so they know more than what we can offer them if they want to go to a different company in five years. Those are my real concerns about the union coming in.

**The Chair:** Our time is up. I want to say thank you to the Canadian Business Forms Association for its interest and participation. You've made a valuable contribution. The committee is grateful to you. Take care.

**Mr Lacroix:** We thank you, Mr Chairman. In the event that you wish to have any further document from us, you have our address on our letterhead. We urge you to feel free, any of the committee members or staff, to call us. We'd be more than happy to assist you.

1900

#### HOTELS, CLUBS, RESTAURANTS AND TAVERNS EMPLOYEES UNION, LOCAL 261

**The Chair:** The next participant is the Hotels, Clubs, Restaurants and Taverns Employees Union. Please come forward, have a seat in front of the microphones and tell us your names and titles, if any. Your written submissions are being distributed and will be an exhibit and form part of the record. Please try to save at least the last half of the half-hour for questions and exchanges. Go ahead, gentlemen.

**Mr John Kearney:** My name is John Robert Kearney. I'm vice-president of the hotel employees union. Frank Grella is secretary-treasurer of the local. He's been the secretary-treasurer for over 25 years.

The hotel employees union is pleased to have this opportunity to present our views on Bill 40, in particular amendments to the successor rights protections under the act as they apply to foodservice workers.

Our local has represented workers in the hospitality and service sectors for over 35 years in Ottawa. We know at first hand the disenfranchising effect of the act's current design and operation. Hospital and service workers, who are predominantly women or from other employment equity groups, struggle daily to overcome the historical, social, political and cultural barriers which limit their employment opportunities and directly affect their willingness to consider the option of collective association.

We applaud the NDP government's leadership in addressing this issue of accessibility and in particular with



respect to the inclusion of new successor rights protections for service workers in retendering or contracting-in situations. We have been lobbying for changes in this area for over 10 years and we know at first hand the devastating ramifications of the act's current shortcomings for workers and employers involved.

Over the last 15 years contracting in and retendering have been directly responsible for the loss of collective bargaining rights for more than 300 workers in our jurisdiction alone. Many of these workers had freely exercised their right to organize under the act, and within the collective bargaining process secured collective agreements which fostered effective working relationships with their employers.

Cafeteria workers make up the majority of the Ontario workers affected by this loophole in the law. Contracting in or retendering has proven to be an easy way for the users of such services to prohibit collective bargaining rights and undermine the effectiveness and benefits of the collective bargaining option throughout the industry.

The situation of foodservice retendering is unique from the other issues of accessibility addressed by Bill 40 because the amendment seeks to stop third-party interference in an employment relationship. In each of the cases we are going to review in our presentation, the employer was not the party who eliminated the workers' collective rights. Our situations, like so many others across the province, were carried out in the majority of cases by officials of the federal, provincial or municipal governments acting in the capacity of landlord, not employer.

Industry-wide, this deficiency within the act has been used to ensure that certain segments of this province's population always remain among the ranks of the working poor and always live with the fear of job loss hanging over their heads. It is also an example of how an employer who pays a fair wage under a collective bargaining relationship is actually blacklisted by his legal obligations under the act when tenders for service are called.

We strongly believe it is time to put an end to these injustices in order to eliminate workplace ghettos and to provide protection for employees and employers who are willing to work cooperatively under the collective bargaining process.

The first case I wish to bring to your attention deals with the Transport Canada Training Institute, which used to exist in Cornwall.

In 1978, TCTI opened its door, and Modern Building Cleaning had the first contract to provide cleaning and janitorial services. At that time, we believe, the workers providing the service received a little more than the minimum wage. The contract went out for tenders shortly thereafter, and Canada's Capital Cleaning Services was the successful bidder. Fortunately, this company hired all the people who previously worked for Modern Building Cleaning, but at minimum wage.

Early in 1982, these workers decided to join a union. Subsequently, Local 261 was certified as the bargaining agent and contract proposals were submitted to Capital Cleaning Services. Almost immediately, Transport Canada

decided to cancel Capital's contract, and tenders for service were called.

Modern Building Cleaning was successful but did not offer to rehire the employees, although many had worked for Modern originally. In order to get their jobs back, these workers had to maintain an information picket line for almost two weeks. They rejoined the union and Local 261 had to make a new application for certification to represent Modern's employees.

A two-year agreement was negotiated with Modern which, upon expiration in 1985, would pay an average wage of \$5.10 an hour; at that time, little more than \$1 over the minimum wage—not an awful lot of money, especially for single mothers with families to support, a description which fit the majority of these workers.

Early in 1985, aware that Modern's contract with Transport Canada would finish in July, a delegation from Local 261 met with senior advisers to the Minister of Transport, Don Mazankowski. Meetings with the minister's parliamentary secretary, Michael Forrestall, and other MOT officials were also arranged by a delegation from the Canadian Labour Congress. At each of these meetings we stressed that any tender call, particularly at TCTI, should oblige the successful bidder to offer employment to those who were already performing the work and at rates equivalent to what was already in place.

On or about June 21, Local 261 was contacted by a representative of Service Star Building Cleaning. We were advised that the company was the successful bidder and that they had obtained the contract through a bid containing labour costs based on minimum wage. The company was prepared to rehire the members and recognize the union's right to representation only if the workers agreed to substantial reductions in pay, reverting back to minimum wage.

Service Star hired some of the original employees who were willing to work for \$4.10 an hour. Local 261 again set up information picket lines and filed unfair labour charges against Service Star for anti-union activity. Part of the settlement of the unfair labour charges involved the rehiring of former workers, who by this time had been picketing and out of work for upwards of two months. The local was once again certified as bargaining agent.

Negotiations with Service Star commenced shortly thereafter, and throughout the process the company representatives advised Local 261 that they would not consider any proposal which would increase the labour costs beyond the original bid, minimum wage. The company tabled a final offer on the basis of minimum wage and threatened to back out of its contract with Transport Canada if the members did not accept it. The workers rejected the offer and went to the picket line despite the fear of unemployment if Service Star made good on its threat.

The members walked the line that cold and bitter winter while their employer carried on with the use of scabs and family members. After 13 weeks on the picket line and five years of fighting to have their right to collectively bargain protected, they gave up and returned to work under an individual employment contract. Local 261, however, took one last shot at trying to get these employees

collective bargaining rights. The local made an application for certification under the Public Service Staff Relations Act, naming Transport Canada as co-employer. Unfortunately, we were unsuccessful. The PSSRB, the Public Service Staff Relations Board did not find that Transport Canada was a co-employer despite its ability to terminate the employment of these workers four times in five years.

For these 60 workers, the act failed to protect their right to collective association. For these workers, there was no real collective bargaining option.

During our lobbying efforts in 1985, the Labour critic for the New Democratic Party, Hamilton East MPP Bob Mackenzie, wrote to us in support of our efforts to bring this matter to the attention of the provincial government. His letter is contained in the appendix to our package. He wrote:

"When the Conservatives were the government, they were opposed to any changes that would protect such workers, and we did not get any support from the Liberals in opposition when we tried to argue with the government to change the legislation....

"In response to your comments as to whether or not the action was deliberate by the Conservatives, let me assure that it indeed was deliberate, for it was a major focus of our attack on their inadequate labour policies....

"As a result of this obvious and increasing injustice, we insisted on action...when we agreed to the two-year accord we have with the Liberals....

"We will get some action, but whether it will be adequate only time will tell. To date the Liberals have not been leaders in this fight for the lower-paid workers in the province."

No improvements were made under the Liberals even with the accord.

The workers of Ontario finally believe they have a government that is prepared to be a leader in the fight for lower-paid workers. Workers finally believe their voices will be heard by the government.

#### 1910

Case 2, food service concessions at Lansdowne Park: In 1986, Local 261 represented 150 workers at Lansdowne Park under a collective agreement with Versa Foods. At the time of the tendering we lobbied municipal politicians to ensure that the new contractor offered job security to employees already working for Versa Food Services. The contract was awarded to Capital Food Services by the municipality without such protections being a condition, and many of the workers lost their jobs, or were forced to accept lower wages and benefits in the face of unemployment. Many of these workers had long service at Lansdowne and were getting on in years. None could afford to have their incomes reduced or to become unemployed.

At the time, the Capital ward alderman, Rob Quinn, said the contract was awarded to Capital Food Services simply because the contract came due and Versa was underbid. Under the deal with Capital Food Services, the city was to receive almost \$1 million more than under the Versa bid. Unfortunately, we believe the so-called windfall

for this city was at the expense of the Versa workers and their bargaining rights.

Why was the contract tendered? Was it quality of food or service? We believe it was simply wage-benefit cost to the caterers. Capital was bidding for minimum wage, Versa for the collective bargaining rates. Versa and their workers were, in our opinion, being blacklisted for participating in the collective bargaining process. The employees' decision to exercise their right to collectively bargain effectively put them out of work, and the municipal government would not help.

Case 3, Confederation Heights complex: In 1991, Local 261 represented workers at the cafeterias of the Confederation Heights complex. These workers were working under an agreement we had negotiated with Canada Catering over almost 20 years.

The RA Centre put the services out for tender, and Canada Catering was undercut by another company in the bidding process. All the employees were offered employment by the new caterer, and some accepted, although it meant significant reduction in pay, loss of accumulated holidays, benefits and seniority. The remaining employees were either transferred by Canada Catering or terminated.

In effect the RA Centre, working as a representative of Public Works, terminated these employees, in our opinion. Once again, representatives from the union lobbied the government officials to protect the jobs of these workers through tender conditions. We were once again unsuccessful. Local 261, however, has since been certified to represent the employees of these cafeterias under the new caterer.

The workers affected by this retendering were left wondering whether they had a job and whether it was worth the struggle over the years to improve their working conditions. These new members also live with the same fears under the current law and their newly negotiated agreement.

How do you explain to Mirette Ladouceur, who has worked in the cafeteria since 1970, that the rights and benefits she has won may be taken away by the government of Canada? How do you tell an employee with 20 years' seniority and a few years to retirement that the government just put her out of work?

How do you convince these workers, or any other cafeteria worker, in a government facility or otherwise, that they really have a right to join a union and to collectively improve their working conditions? How do you justify to the caterer, who has cooperatively entered into collective bargaining with his employees and agrees to pay fair wages, that he should continue to do so, even though he may lose his operation after 20 years and not be able to even compete because of his legal obligations under the act? Where is the legislative protection and incentive for these food service workers to choose the collective bargaining option or for employers to enter into cooperative partnerships with their employees? Very simply, under the current law, there is none.

The economic impact of successors' rights amendments is quite simple: The amendments would reduce the ability of owners to reduce costs and contractors to



compete simply by lowering wage and benefit costs. Productivity, food quality and service would now be factors upon which contractors would compete and contracts awarded. Vulnerable employees would benefit from the important protection against job loss and wage cuts, employers' severance liabilities would be substantially reduced, clients would receive improved quality and service for their money and caterers who work cooperatively with their employees in collective bargaining would no longer be blacklisted in the tendering process.

Do we, the people of Ontario, really want a business environment which competes on the basis of how far employers can exploit their workers, rather than the quality of products they can produce? We are dealing for the most part with facilities owned by the people of Canada. Should we not ensure that such workplaces are a model for other employers, rather than a ghetto for the working poor?

The business community has launched a serious campaign against Bill 40 on the basis that all the amendments contained in the bill are pro-union and anti-business. We fail to see how they logically consider these amendments to the successor rights language to be anti-business. Employers and employees win in the retendering situation with these proposed successor rights protections. Perhaps this is symptomatic of all businesses claims about the proposed amendments. Certainly their doom-and-gloom prophecies fail to recognize the success of the many employers in the province who have entered into partnerships with their employees through the collective bargaining process and "survived."

In each of the cases we presented today, the legal framework of the act failed to promote and protect collective bargaining rights. Efforts to seek administrative solutions or negotiate terms to protect these workers have proven unsuccessful over the years, despite the valiant efforts of the Ontario Labour Relations Board to find such protections in the existing framework. Legislative amendments are necessary to permit the board to deal with these unjust situations and to promote collective bargaining. We therefore strongly urge the government to enact all of the amendments contained in Bill 40, in particular those pertaining to contracting in and retendering of service contracts.

Labour law amendments are necessary in Ontario if we are going to successfully promote collective bargaining as a viable option for our service sector workers and if we hope to capitalize economically on the benefits of improved workplace standards.

In closing, we feel compelled to make one final comment on the business community's "threat" that the enactment of Bill 40 will result in job loss in the province as investors run from the hostile, union-dominated workplaces which would suddenly appear en masse in the province.

The proposals speak to increasing the access of workers currently disfranchised from the collective bargaining option. The amendments will not open the floodgates of union representations. Workers will still be left to make their own choice, but now many will have a real choice for the first time. If anything, we believe the legislative

amendments will send a clear message to future prospective investors that Ontario wants to be competitive and attract investment, but not at the expense of our most valuable resource, the workers of this province. We expect responsible employers willing to make an investment in our economy and our workers.

The lack of support shown by the business community for even the successor rights amendments in retendering situations reveals, we believe, the kind of employment relationships and working conditions they want to see in Ontario's future. If this is the kind of investment we are going to get in Ontario, then our workers will need all the protection they can get in the years to come.

Finally, we wish to emphasize to the committee our full and complete support of the amendments contained in Bill 40 and we ask that you act as speedily as possible to allow the government to bring the workers of Ontario what they have for so long been denied. Most Ontarians may not understand the legal technicalities of the proposals, but they can easily understand that workers should have the right to freely choose for themselves whether they wish to negotiate the terms of their employment individually or collectively. They also understand that if a right to choose exists by law, that right should also be protected. Legislative changes designed to ensure the accessibility and protections of such rights for all workers, therefore, are also easily understood by every Ontario resident because it is an inherent part of our rights and freedoms as citizens and workers within a democratic society.

We thank you for your time and for your efforts to protect the rights of all workers in Ontario.

**The Chair:** Thank you, gentlemen. Three and a half minutes per caucus. Ms Murdock, please.

**Ms Murdock:** Thank you very much. It's interesting to see so much time and such succinctness in stating only one portion of the bill. When we first got elected I was being briefed early in my career in the Ministry of Labour by Mr Dean; as a matter of fact, this issue has been on the plate of the Ministry of Labour for a long, long time.

I know that for a while, they had tenuous agreements between the parties because, as you stated, and I think it needs to be restated, the board itself has recognized that when women in particular have worked for 20 or 30 years doing cafeteria or cleaning work in office buildings and a new boss comes in, they have to start all over again each and every time in terms of seniority or pension rights or anything like that.

In your second case or your first case—it doesn't matter—are they all women or are some not?

**Mr Kearney:** In the bargaining units we represent, I'd say at least 90% of them are women. In the circumstance of the Cornwall situation, 90% were women. I think there were a couple of janitors who were male. In the situation of Lansdowne Park, there was a lower percentage of females; it was about half and half. In the Canada Catering situation, there were three men out of 20 or so who ran the cafeteria.

**Mr Bisson:** Just a quick question. In your brief you talk about the practice of retendered contracts, with the

employer basically undercutting the other contractors' bid by undercutting wages. How often do you see that within the industry? I know I've seen it once before.

**Mr Kearney:** All the time. All the circumstances of retendering we've encountered—and we've discussed this with the individual caterers who have been involved and who have cooperated in the collective bargaining process and those who haven't been cooperative—all end up in the same situation. When the tendering goes out, it's not so much a question of food quality and service, it's a question of what the bottom-line cost is and how much the government, the landlord or whoever can make from it. If your labour costs are based on minimum wage, you're automatically going to get a bigger profit margin; if your labour costs are based on the collective agreement rate, you're not going to have that ability to make the bid.

**Mr Bisson:** But if there were 10 contracts out there, from what you see, of those 10 contracts how often would that happen? Once, twice, 10 times?

**Mr Kearney:** In each of the circumstances in the units we've represented where retendering has taken place. It's happening on every occasion.

**Mr Bisson:** I wish you luck with that, because I know it's happened; I've seen it within my riding. It happens, but I wasn't aware it was of the magnitude you're talking about.

**Ms Murdock:** Some of the employers themselves see the injustice and have been working. In the ministry, this has been an ongoing consultation, so those sections of these amendments have come from all parties working together to get the language worked out. I wanted to get that on the record because I know the previous presenters made remarks about that and in relation to the contract tendering restrictions.

**The Chair:** And it's on the record now.

1920

**Mr McGuinty:** Thank you both for your presentation. I find it difficult to argue with a lot of the points you have raised. It seems to me it's only fair that there be some extension of the successor rights in order to ensure that any successor employer effectively steps into the shoes of the previous employer.

But I wanted to lead you into something else. Because you strike me as not a radical type in terms of the position you're taking on this, I want you to assume for a moment that you're the Minister of Labour and you are concerned with the state of labour-management relations in Ontario. I don't believe the process we are engaged in or which has led to the genesis of Bill 40 is in any way going to bring about some kind of rapprochement and any improvement in those relations, but what can we do now? Let us assume this is going to become law. What can we do to bring about some kind of improvement in those relations?

**Mr Kearney:** My experience is limited in the area, but if I were in the shoes of the minister, I think I would proceed with Bill 40 in the first place. I think the big thing that would have to be addressed is to deal with the lack of input the management representatives have put into the

process up until this point. Until the scare tactics and the propaganda got started, the representatives of management, in their response to the government's package, basically had the same response to everything, including the successor rights language: "It's too complicated. We can't deal with it in the short time we've got. We'd better think about it." But after 15 years, everybody should have known what was going on.

Given management's approach now, I don't think it's a matter that if the labour legislation is implemented there's going to be a great deal of hostility created by it. There's going to be an adjustment period, as there always is when there's any labour law amendment, but I think the parties will get back into the mesh of what they were normally doing. Instead of spouting political rhetoric about the labour law amendments and the ramifications for the province, everybody will get back down to business.

It's a matter of making sure that the introduction of those amendments is smooth and effective and that everybody's involved in an educational aspect in terms of learning what they are, because I think there's been a lot of misconceptions and a lot of misinformation produced on management's side as to what was contained in the documents. I think once it gets down to practicalities, it will be resolved.

**Mr Offer:** Thank you for your presentation. I must say, the area you've addressed and how you've addressed it has highlighted in a very clear way some of the areas we've been dealing with since the beginning of this hearings process.

I have just two questions for you. From your experience, do you expect that this might result in a loss of employment for employees in a tendering bid? It's clear they can get the same benefits, but it's also clear under the legislation that they actually don't have to get a position; it must go by seniority. I'd like to get a sense from you whether there is a concern that the way the provisions are styled may inadvertently result in those employees, or some of those employees, losing jobs.

Second, we have heard—I'm not certain exactly where—on this one area that there is a difference where, for instance, a school board has contracted out and now is going to provide the services in-house. I heard some concern, and I apologize, I haven't particularly clearly indicated what the concern is, except that there was a concern about an employer moving from a contract-out situation to an in-house type of provision. I'm wondering if there is some issue there that we should be aware of.

**Mr Kearney:** In response to your first question, unfortunately the potential for loss of employment will depend upon the government's offices and officials and departments who are going to be determining the tendering process, and will depend upon the employers who are going to put those processes out. Surely, if there's a way to reduce costs in terms of labour, wages and benefits, some employers will manipulate the circumstances to capitalize on that in terms of giving themselves a better bid.

But in terms of the caterers we've dealt with, I can't see those circumstances taking place, although there have



been some political concerns raised by other people that in certain tendering processes it may be a factor in the loss of employment. So there is a possibility, there is no doubt. There is a possibility with respect to that in any circumstance, no matter what the protections are.

The speaker beforehand reiterated the fact that he was shocked we were talking about people having rights in this province and the independent people didn't want them. Well, we've gone well beyond that since the introduction of the Ontario Labour Relations Act long ago, but we're still talking about it today. So that issue may be a possibility.

With respect to your second area, I guess it again will depend upon employers and whether or not they feel any responsibility, moral or otherwise, to hire the people who may be from outside contractor situations.

If we're dealing in the circumstance of your situation, of an educational facility which is funded by the province and the people of this province, we would assume it would take on a responsible hiring practice and try to offer employment to those people who are outside the organization who would now be losing their employment because of the inside work situation. So hopefully, that wouldn't be the case.

**The Chair:** I want to thank you, gentlemen, for coming here on behalf of the Hotels, Clubs, Restaurants and Taverns Employees Union. You've raised some interesting points. It's my hope that the government of Ontario, in terms of its hiring practices, would take heed of what you've said this evening and recognize the issues involved, not just the government and the Ministry of Government Services but all the ministries and agencies, many of whom are—well, perhaps I've said enough.

I want to thank you very kindly. We appreciate your contribution here and we're grateful for you coming. Take care, people.

#### ONTARIO CONFEDERATION OF UNIVERSITY FACULTY ASSOCIATIONS

**The Chair:** The next participant is the Ontario Confederation of University Faculty Associations. Please, sir, have a seat, tell us your name, your title, if any, and tell us what you will. We have your written submissions. Go ahead.

**Dr Saul Ross:** My name is Saul Ross. The title is either "professor" or "doctor"; suit yourself, whatever you wish. You have the written submission. It was mailed directly from Toronto. It is brief. I hope in one sense it means that we will not need the entire half-hour so at least the members of the committee can get a short break at this point.

The Ontario Confederation of University Faculty Associations—the acronym is OCUFA, and we're known as that—commends the government of Ontario on the amendments to the labour relations and employment statutes contained in Bill 40.

OCUFA is the organization that represents some 12,000 members of the teaching, research and professional library staff of all Ontario's degree-granting institutions. We vigorously support the initiatives undertaken by the government to harmonize industrial relations and to facilitate

access to collective bargaining by the working people of the province.

We appear before you today to bring to your attention a major concern we have regarding the way in which the amendments to Bill 40 will affect the academic staff in Ontario universities. In particular, section 32, amending section 73 of the act, with respect to the use of replacement workers during a strike or lockout, raises problems for striking or locked-out academic staff members who are involved in particular kinds of research. Such research, for example, and this is only a small indication of the range, may involve animals, plants or other live subjects, or it may involve such activities as observing or recording changing temperatures in metals or other substances at standard intervals.

The majority of the academic staff has a responsibility to do research. Performing both teaching and research in fact distinguishes university professors from other kinds of teachers. Much of this research is carried out in the workplace itself, and some of it, such as that described above, requires that the researcher or his or her staff attend to the needs of the research at particular times.

If the workplace is not accessible to the researcher because of a strike or a lockout, there could be dire consequences. The researcher is responsible for ensuring the life, health and safety of research subjects. If a university were to lock out researchers involved in research using live subjects and did not make provisions for the protection of the live subjects, the researcher would have no recourse under the statute as amended. Even when there is no threat to live subjects, if the workplace is not accessible to the researcher because of a strike or lockout, years worth of work, even a lifetime of work, can be wasted and one's academic career destroyed.

#### 1930

Much of this research is funded by external organizations and agencies, which may be governmental, private foundations or industry. The researcher has a responsibility towards the funder as well as towards the university as employer, and thus has dual accountability. Researchers then have a unique problem. Since the *raison d'être* of their research is to further knowledge in their respective fields, they are the experts with respect to those fields. University administrators cannot and should not judge what does and does not need to be done and when.

This is, then, the core of the problem for research workers in universities. The conditions under which the employer may request to use replacement workers, as outlined in section 73.2, do not include the protection for research. This situation must be changed so that researchers may protect research and the new knowledge flowing from it.

Equally problematic is the process by which the decisions are made to protect that research. The amendments provide for a process wherein only the employer may request the use of replacement workers from the union to carry out the "vitaly needed services" specified in section 73.2. There is no process by which the union may request to provide bargaining unit employees or replacement workers for these tasks. The implicit assumption is that

only the employer has a vested interest in assuring that essential services are provided for.

In the case of academic research, union members are far better able to determine the need for continuation of services than is the employer. We would argue, therefore, that unions be able to initiate the request for replacement workers and be given the same emergency powers reserved in the current amendments for employers. It is also vital that the labour board be given clear, specific direction about the circumstances necessary to protect research and that strict time limits be set within which the board must rule.

We are concerned that research in Ontario universities could be jeopardized by the amendments to the act. Vital, basic and applied research could in fact be put in danger during a strike or lockout if researchers cannot gain access to their laboratories or other research sites within the university. The mere threat that one's life work could be put in jeopardy if one voted to strike over one's terms and conditions of employment could intimidate researchers and cause them to compromise other vital workplace conditions.

Researchers who are members of non-certified bargaining units may well decide not to support certification because of fears of losing control over decision-making that affects their research. The amendments need modification to address these serious concerns.

**Mr Daigeler:** It's nice, Dr Ross, to see you for a change here in Ottawa, rather than down in Toronto, on a different topic this time around. For those who don't know, Dr Ross is the new president of OCUFA, and being the critic for Colleges and Universities, we have other dealings as well.

I think, Dr Ross, you are making some very excellent points in your brief and it would seem to me that you're making some points that I'm not sure you really want to support. I get the impression, in fact a very strong feeling, that the arguments that you're putting forward for your particular group are just as valid and hold just as true, and I think you're right, for many other people who have a life investment in their business enterprise and for whom the threat of a total lockout could mean a terrible loss of their life investment.

The situation that you are describing for researchers I can certainly empathize with it, but how do you see that being different from any other employer, or even workers for that matter, who may be threatened in employment if the business goes down because the business can no longer continue under the conditions that may prevail through these labour reforms? Why would the group that you represent here be different from any other one in the labour field? You're saying at the very beginning that you very much support the intentions of the government, but you would like to have a special case for yourself.

**Dr Ross:** Yes.

**Mr Daigeler:** I must say, I have some difficulty with that.

**Dr Ross:** Let me start by explaining that I think there is a significant difference between what happens in a university and what happens outside in a commercial enterprise.

The goal of the commercial enterprise is profit and I would hope that, given either a strike or a lockout, where there is a real, serious threat of the termination of that enterprise, good sense would prevail so that we would avoid the drastic scene that you painted.

The goal of the research in universities is not profit-motivated. The motivation is the advancement and enhancement of knowledge and it seems to me that everybody has a vested interest in ensuring that this kind of activity, which at base is going to provide the foundation for the advancement of the people of this province, is not interfered with.

**Mr Daigeler:** I must say I do take considerable issue with what you're just saying there, because it strikes me as quite elitist. Let me say why. I certainly do not consider the work of employers and the workers who contribute to the profits of this province and to the wellbeing of the economy of this province any less valuable—I'm the critic for Colleges and Universities and I certainly support research, but I do not in any way, shape or form put the research that's being done at the universities, as important as it is, on a higher level, morally or otherwise, than the work that's being done by our employers and our workers in the province.

1940

I don't think you can argue on that basis, because research might be more important than the profits that are being made that support this province economically and that pay the taxes which provide the public services in this province. I don't think you can argue, on that basis, that the research should be exempted from the provisions of this law.

**Dr Ross:** No, what we are arguing is that where research is involved, where certain subjects are being manipulated by the research, things like plants, animals etc, they have to be looked after. Whether there is a strike or a lockout, that provision has to be made to allow for that to continue—

**Mr Daigeler:** I agree with you there.

**Dr Ross:** —the ordinary, ongoing research where there are no live subjects involved, where there's nothing of that nature that is going to die or explode or something like that.

For example, my area of research is philosophy of sport. If my university were to lock me out or if my faculty association, which is a certified union, would vote to go on strike and I would be on strike and my research would stop, I would make no representation to go and continue research. My colleague down the hall from me who has 50 or 100 white mice, another colleague who looks after a greenhouse, because the research is done on insects or plants etc, access must be allowed to those. That is the point we are making.

**Mr Daigeler:** I certainly appreciate it and I support that point. However, where I disagree with you, or we seem to come from different angles, I don't see the difference in that argument with the just-in-time presentations, for example, that we've received from the automobile sector where they say, "If we don't provide these particular



parts to the next plant we have lost the whole contract, and the whole company goes down the drain." I don't see the substantial difference in the argument you're making versus presentations we've received from others.

**Dr Ross:** Then allow me to try to clarify, please. I am not arguing for the continuation of all research if there's a strike or lockout. What I am saying is that as the amendments now read, the provision for looking after indigent people, for looking after people who cannot look after themselves, there is an allowance made for those kinds of emergency interventions.

As it reads, we do not believe that this applies to non-human, live entities. In the university, considerable research is done on non-human, live beings, and we must insist that this category be included as well so that we could have access to ensure that these things don't die.

**The Chair:** Thank you. Mr Offer and then Mr McGuinty.

**Mr Offer:** Thank you for your presentation. You've brought forward another new wrinkle in this legislation.

It seems there are two areas. The first is the area you've spoken about, where the process in the area of an exception to the prohibition firstly, is not there. Secondly, you're saying it's too narrow as far as what you are doing is concerned.

There's another area which I think is probably more fundamental, and that is a grinding of principles here: Section 75 of the Labour Relations Act—not of the bill, but of the act—allows an employee during a strike, for reasons only known to the employee, to return to work and makes it obligatory for the employer to get that person back. This bill has repealed that right of an employee.

My question is, do you believe that if that were brought back into the act, as it now is and has been the law of the land for many years, that could deal with the issue you've brought forward?

**Dr Ross:** Before I could offer a definite answer, I would have to look at that section in the act. But it seems to me, whether we use that section of the act or whether we modify the amendments at present, there needs to be a recognition that there are live subjects other than human beings that need our attention. It just so happens the university is a repository, it is the location where much of this takes place, rather than other institutions. So that has to be accounted for.

**Mr McGuinty:** Dr Ross, I can appreciate the concerns you have raised, and you have raised those on behalf of the research component which is found at the university level. I want to talk to you about the teaching aspect, though, and I think that if there were university students here this evening, they might be concerned that you were advancing arguments on behalf of the researchers and not on behalf of the teachers. I think students who have paid their tuition fees would be concerned about your association not speaking out for the rights of students to attend classes, especially after they've paid for them.

I'm wondering if you have any position on this, or am I to take it simply that, no, you consider it acceptable that if

there's a strike, classes are shut down? That's the end of it, notwithstanding the rights of students.

**Dr Ross:** It seems to me that any time there's a strike or a lockout somebody's rights are being trampled on in one sense or another. From that point of view, whatever situation we have, somebody's rights are being short-changed. It seems to me, if I can extend this just a little further, that in effect what the great debate that is being conducted now is really about on all of the amendments on this entire act, Bill 40, is a question of, in one sense, a rearranging or a shifting of various rights.

It seems to me that somewhere along the way we have to accommodate or we have to begin to believe that there are times when certain people have to stand up and be counted, and if standing up and being counted means that other people's rights are being shortchanged at the time, maybe that's what has to happen.

To answer your question directly, and here I think I'm on reasonably solid ground, the largest part of the debate that is carried on before university professors go on strike is the concern about students not having access to the educational process. We have had very few strikes and very few lockouts in universities in Ontario, and to a large extent that is because of the wholehearted commitment of university faculty to the teaching and research process and its concern for its students. So if you have a situation where there is a vote to go on strike, it is with full knowledge that students are being shortchanged. But you can be absolutely certain that the motivation, the provocation has been because the rights of the faculty members have been seriously infringed upon.

**Mr Villeneuve:** Thank you, Dr Ross, for being here. I think you make a very valid point and I'm going to suggest to you that it should be extended now. It should be extended to food and agricultural producers. There is a task force report that has been presented to the Minister of Labour regarding an exemption for agricultural workers and for food producers. I've questioned the minister in the House on a number of occasions and his reply was ambiguous at best and appeared to be favouring the inclusion of food producers and of agriculture in general. I think you make a very articulate argument for an exemption for the research group, and they're very important, although very minimal in number, I guess.

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Could you comment on the exclusion of food producers, including the looking after and feeding of livestock, production of crops, which is very seasonal, and what suggested solutions you might have on that?

**Dr Ross:** That's a real tough question. I am not familiar with that industry at all, but it seems to me, once again, we're talking about two aspects at least. Where animals are involved, I think there is general consensus that we ought to treat them as humanely as possible. Certainly, if there is a strike or lockout that would create such dire conditions that it would inflict pain and suffering on animals, then there needs to be provision made so that they be treated humanely.

In terms of the agricultural aspect, and I fully appreciate the fact that in many cases it's a very short growing season and if the crop isn't harvested and marketed there can be dire financial consequences, once again I'm not in a position to offer much of a suggestion unless I have some time to study it.

It also seems to me that we as a society and we as a government—you, the government—need to make a decision about what is a vital service. We state that our policemen cannot go on strike, our firemen cannot go on strike. There is a whole range of individuals that we prohibit from striking because that is considered a vital service.

If we deem agriculture to be a vital service, the provision of basic food for us, then there has to be an exemption. If we deem agriculture not to be a vital service, because we can obtain food elsewhere—but this is another area where there is a continual relationship between employer and employee—then we don't grant an exemption.

I'm sorry, I can't answer any more fully because this has not occurred to me until you raised it.

**Mr Villeneuve:** It's been suggested in the agricultural task force report that people involved in that particular industry could not have the right to strike nor could they be locked out by their employer, and binding arbitration would therefore follow. Could you comment on what you have seen of binding arbitration settlements in the last five or 10 years?

**Dr Ross:** Most of my knowledge revolves around the university and we haven't had too many settlements involving binding arbitration. It seems to me that the major drawback with binding arbitration is that neither the employer nor the employee owns that decision and so, while it may bring peace, it may also be the seed of future discontent for both sides.

**Mr Villeneuve:** I think you hit the nail right on the head there. I put it to a very articulate union representative of the Steelworkers last night and I used the example of an arbitrary settlement for the firefighters in the city of Cornwall, where retroactively, in an economy that is devastated, they were granted a 13.25% increase. This very articulate Steelworkers' representative said that indeed, if that were too high, in his opinion, he'd recommend that maybe his union should take less.

I've never heard that before. I thought that was an interesting prospect. I don't think it's a real-world situation. But these are some of the problems that binding arbitration will bring forth and by forcing it on people I think we're creating an atmosphere that may not be tolerable. Could you comment on that?

**Dr Ross:** I go back to what I said before, that if you impose things on people, then in effect they do not feel a sense of responsibility and ownership, and where people can negotiate and settle things between themselves, then they have a built-in sense of responsibility because they're a part-owner of that decision. So far better to have that settled through negotiation than imposed.

**Mr Villeneuve:** I appreciate that and this is my final comment—

**The Chair:** No, Mr Villeneuve, we've got to move on because we've used up a whole lot of time. Mr Bisson will be angry at you for using his time and we wouldn't want that to happen. Go ahead, sir.

**Mr Bisson:** I'm just going to keep it really short, just to clarify something here just very quickly. Your tenure is based on the research that you do within the university, I would imagine.

**Dr Ross:** Yes. Well, it could go outside.

**Mr Bisson:** Yes, I know, that's why I raise it, but generally that's the way it works. Now, the research itself is the property of the university, not the researcher, right?

**Dr Ross:** In most cases, the agreement is between the granting agency and the university, with the faculty member or the professor actually conducting the research.

**Mr Bisson:** Who actually owns it in the end if it brings fruit? I would imagine it's the university. I don't want to get into that debate, but normally it would be the property of the university, from what I know of the system.

**Dr Ross:** It depends on what you mean by "brings fruit," because if I conduct research that's funded, what I publish is, I guess, the joint ownership of me and my university.

**Mr Bisson:** So the university is implicated in the ownership.

**Dr Ross:** Well, I don't know of any granting agency that would direct the money to the professor.

**Mr Bisson:** I see what you're getting at, but I'm asking the question for a reason. Let's hypothetically set out to settle the situation. There's a legal strike that goes on, the professors feel there's a really outstanding issue they can't accept and they go out on the picket line. What you're advocating is not for the researcher to go in eight hours a day and do normal work; what you're talking about is to go in and make sure the rats are fed.

**Dr Ross:** Yes.

**Mr Bisson:** To make sure the experiment you have going on is—there are measurements or something that have to be taken. You're not talking about complete workdays.

**Dr Ross:** No, no.

**Mr Bisson:** I'll just get to the point. When you went through your presentation, I was thinking of what I understand as section 73.2. Let me just read subsection 73.2(3) very quickly:

"Despite section 73.1, specified replacement workers may also be used in the circumstances described in this section to perform work"—and it goes on to explain one of them as "danger to life."

If that's animal, I don't see why it would be any different between animal or person. So as far as the animals are concerned, I would see them being covered under that particular part of the act. Would you agree?

**Dr Ross:** When we read it, the preceding section talked about human beings.

**Mr Bisson:** Oh, I see what you're saying.



**Dr Ross:** It seemed to us that everything that follows thereafter continues to apply to human beings. If your interpretation is the correct one, then we don't have to make the submission, other than to request that the wording be such as to indicate clearly that it is not limited only to human beings.

**Mr Bisson:** Okay. That's fair. Clause (b) of that same subsection says, "the destruction or serious deterioration of machinery, equipment or premises." That covers somewhat the research itself, the material itself. What you're saying is that it has to say it a little bit more clearly.

**Dr Ross:** Yes. It doesn't give us enough comfort. If it specifies these kinds of things, as we have indicated in our brief, then we know there is no discussion or debate between the professor and the administration. It's covered in the statute.

**Mr Bisson:** I have just one other thing and then I'll go to my colleague. When you made the presentation, I took a look at it. The way I read it, the way the act is set out, subsection 73.2(3) is separate from subsection (2) when we're talking about life. Are you aware of subsection 73.2(15)? I'm going to let my colleague deal with that, because from what I can see in the act, there are provisions to deal with your situation.

**Ms Murdock:** If I could direct your mind to page 27 of Bill 40, subsection (15):

"Agreement re specified replacement workers"

"The employer and the trade union may enter into an agreement governing the use, in the event of a strike or lockout, of striking or locked-out employees and of specified replacement workers to perform the work described in subsection (2) or (3)."

That could be negotiated between you and the university during the life of the contract. As research changed, you could do that, or during the collective bargaining process itself, rather than waiting until a strike occurs and doing it then. Have you looked at that section in relation to research?

**Dr Ross:** We've looked at that section, but we may envisage a really recalcitrant administration. We may face an administration that says, "Yes, the legislation says: 'We may enter into an agreement.' We're not going to, because we don't think this is important or necessary."

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**Ms Murdock:** That's actually fairly interesting. I know I asked a somewhat similar question, although I didn't cite the subsection, to the children's aid society in terms of getting its employers to agree to whether a lawyer would be considered a specified replacement worker, say, in a child abuse case where they had to go to court in a small CAS office, and actually the answer was almost identical.

I can understand, and certainly I have lived through strikes in my lifetime where, during the strike or towards the end of the negotiation where a strike seems to be inevitable, tempers are running and feelings and emotions are really tight and, as you say, an employer might be a little or the union might be very temperamental in making some kind of cooperative or consensual decision.

But that isn't the case all through the life of the contract. Usually, particularly at the university level, where during the collective negotiations, the bargaining process or the life the contract or the collective agreement, as your research changes—it doesn't stay the same year after year necessarily—it could be done when emotions are not running high, and in this instance it's in the best interests of the employer, who gets prestige from your research and its value as a university increases. It's in its best interests, would you not agree, to work out a deal with you—say you were working with plants or animals—that you would be a specified replacement worker?

**Dr Ross:** I'm glad you point this out to me, and we will make certain that this information is conveyed to all the faculty associations, with the advice that they look to this particular subsection and include it in the collective agreement, because the collective agreements that I have seen invariably don't have it. My concern here is, whatever mechanism is used, that we protect life, whether it means some minor rewording or we have to do more work or both.

**Ms Murdock:** Wendy Jarvis says to say hi. She was in my office.

**The Chair:** She did. Mr Bisson.

**Mr Bisson:** This is a suggestion just to take back to your membership. One of the things that possibly can be done is, as new research is coming on line, part of the contract you sign includes subsection 73.2(15), and that would sort of get around the problem, because I agree with part of what Mr Daigeler said. There is some danger in making it wide open. It allows for you to deal with it on a specific basis.

**The Chair:** Professor, I want to thank you on behalf of the committee. You have raised some issues which had not been raised before, which clearly have attracted attention to the sections of the bill that you've referred to and that may well, as they should, result in constructive amendments being brought. I trust that you'll keep in touch with the committee's work and see whether indeed your contribution has fostered that type of thing.

**Dr Ross:** Thank you again for the opportunity. I wish the whole committee good luck in wrestling with this difficult issue.

**The Chair:** Thank you, sir. You can wish us good luck twice, if you wish.

#### RETAIL, WHOLESALE AND DEPARTMENT STORE UNION

**The Chair:** The next participant is the Retail, Wholesale and Department Store Union. People, please be seated in front of a mike. Tell us your names, your titles, if any. Proceed with your submission. Try to save time, at least the last half of the half-hour, for discussions and exchanges.

**Mr Tom Collins:** Tom Collins, Canadian director of the Retail, Wholesale and Department Store Union, and with me is James Donnelly, international representative in the Ottawa district area.

Mr Chairman, I want to thank you for the opportunity to speak to the committee and to review, in some part, our position on some of the reforms and amendments to the act. I want to say from the outset that the document you have in front of you goes through, in some detail, some of the sections that we are concerned about, with a lot of illustrations of where these particular amendments are and where they might be strengthened, based upon our experience in the field that we are in. I'm not going to read the document. I'm just going to talk directly to some illustrations of what has gone on in the labour movement and what has gone on in the service sector.

We represent some 20,000 members in Ontario, most of whom are in the retail industry, in grocery stores, department stores, warehousing, drugstores, taxicabs and all those areas of the service industry. It is from that experience that we bring to you something that is very personal to our membership. Our membership has lived through the law as it presently stands.

In reading a newspaper today, the Financial Post, I want to illustrate out front what's really involved in this reform of the act. There are some comments by someone who has been in front of this committee, that is, David Posluns, the chief financial officer of Dylex, the largest clothing retailer. His comments, if they are quoted properly, are: "Posluns said Dylex's stance is not about whether unions are good or bad, but he made it clear unions have no place in the retailing sector."

Now that is strange and that is funny because the law as it is presently comprised says that the decision whether you join a union or not belongs to the employees. I think what we are specifically talking about in amendments to the act is the right to organize or not to organize, and the opposition is there for one purpose, that is, to provide deterrents to free collective bargaining and deterrents to the right of many women, minorities and new Canadians we represent to have the right to collective bargaining in a modern-day Ontario.

I want to say to you that I don't believe the labour movement, the trade unions, gave up their birthright, the right to organize people, when you created the Ontario Labour Relations Act. We have spent the last 15 years, by lawyers and by firms, trying to get around what is the principle of the law, that is, that these people should be free to make these decisions in a proper process, a due process and an efficient process.

I want to say as well—and you'll note in this document and I want to point out to you specifically—that one of the areas attention has been paid to is the question of a purpose to this act. You'll see some yellow pages in the middle. If you take the first one of those, you will see that this is an internal document of the Hudson Bay retail company. It's an internal document that comes out of the human resources department for that entire retail operation which includes the Bay, Simpsons, Zellers, Fields: "The Bay Ontario Union Avoidance Action Plan."

This is what we're dealing with. We're dealing with the interference with the free right of employees in the retail industry to join a union. You'll find in here things like instructions to managers to isolate employees if they think

there's a union around, to put them all on one shift, and many other instances to create a retail environment against the free rights of those employees. This is an actual, true document that can be traced back, and we have confronted the Bay company with this—effectively a declaration of war against its employees.

From that, I say to you that we have a lot of experience and I want to lead by example as to why some of the amendments are necessary and where we think they're deficient in some small ways.

We were involved in the attempt to organize the T. Eaton Co. In six stores we had majorities of employees decide and sign cards in the range of 75% to 80% of every one of those stores. Those people then went through a process of trying to negotiate a collective agreement where, up until the day that they struck, the employer refused to put any wages in the collective agreement, refused to put even the most basic things in that collective agreement. Those people were forced to go out on strike and that company then hired in excess of 500 strikebreakers within the confines of those stores to operate during the strike.

At the six-month point under the law—and we're happy to see there is a proposal on this matter—where beyond that their jobs were not protected, we had petitions from the scabs and the strikebreakers to have another vote on the company's last offer for the sole purpose of keeping those people out on strike and losing their jobs and being replaced by the strikebreakers.

I want to point out to you that through that entire process we were not able to have first-contract arbitration because it did not exist and at the very end of that process, after some two years in front of the Ontario Labour Relations Board, when decertifications came forward from the strikebreakers, the number of employees who voted for the union was still in excess of the number who were on the picket line. Now that was a dishonest process and one, we believe, that is partially corrected by some of the amendments to the act here.

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I want to say to you further and by example that the question of first-contract arbitration in its present form does not do the job where there is a complete impasse. We have decisions as of this week where we have organized four Brick stores in southern Ontario in which the board is saying we do not have access to first-contract arbitration even where the employer will not put in the commission structure, the commission rates or anything in the collective agreement and will leave it to the unilateral decision of the employer to make a decision as to whether they get 1% or zero or 5%. In effect it dilutes the entire process of collective bargaining.

We have other examples of areas of these reforms, such as the taxicab industry. A year ago June, and for a year prior to that, we were organizing the taxicab drivers in the city of Toronto. That process lasted about a year. We made an application for 5,000 taxicab drivers in the city of Toronto—which is no small job—from the eight largest companies before the OLRB. We went through the process. We were then given the employee lists the employer



had. Those employee lists included people who were dead. They included the Toronto Maple Leafs hockey team. Someone said to me earlier today, "Are they the same thing as the people who are dead?"

The point is that there were several thousand people on those lists who did not exist as cab drivers in the city of Toronto, but even in the presence of some applications where we had in excess of 55%, we were forced by the time delays and the time constraints to conduct a vote of all those cab drivers in the city of Toronto. Those ballots have never been counted to this day.

We have since spent 14 months and 25 days of hearings in front of the labour relations board arguing with employers who say that taxicab drivers do not have the right to join a union in the province of Ontario. That decision was made in our union in Hamilton, in Ottawa, in Oshawa and in Peterborough, but we are going over the same ground and those taxicab drivers have not had the right to free collective bargaining or even to have those votes counted for a period to date of 14 months.

We went through the same exercise in the city of Hamilton with the Yellow Cab company. We were three years in front of the labour relations board arguing over whether they had the simple right to join a union. And what happened? After three years in front of that board, the OLRB threw up its hands and said—and this was because of the lists—"We'll accept the union's list because we're never going to make hide nor hair of what the employer's doing."

I say to you that in the current form of the amendments, one of the absences that is there is the necessity of having accurate lists and accurate information and there should be some guideline by which that is provided to the union. An employer who puts the Toronto Maple Leafs hockey team on a list should be found in contempt of that board, should be prosecuted and a certificate should be issued to the union, rather than have legitimate rights of employees deterred for months and years.

I also want to say in terms of the Hamilton situation with the cabs that we then spent two and a half years in first-contract arbitration after we were certified—because we were certified by an overwhelming majority—before the arbitrator awarded a contract. That's six years now, and that was just given to us most recently.

So there is a purpose and a reason for changing some of the law, because this is the actual world that we're talking about. We're not talking about plants and mice now; we're talking about working people in Ontario.

As far as petitions are concerned, this union in the last year and a half has had over 50 certification applications in front of the board and we've gone through a lot of them. With almost every one you have a petition.

For example, at Rich Products in the city of St Catharines, again we had signed up in excess of 85% of the employees to join the union. We made our application. We had a petition. We then spent six months in front of the OLRB arguing over the voluntariness of the position in the final analysis of the employer. The board found that the employer had sponsored and was the one who had put the petition forward and threw it out. But those people had to wait six months to get that decision. We were certified and

we bargained a contract in good faith and we did it without the services of conciliation and mediation and they have a collective agreement today.

It is the process at the certification stage. It is the game at the certification stage, which every practitioner knows is one of delay, of absolute delay. Right or wrong doesn't matter. In the last 10 applications we've had in front of the labour board, we've had discharges of employees; in one case, 11 were put back and in another case two were put back. It doesn't matter that there is a breach of the law; it only matters that it takes time to correct it. That's what's wrong with some pieces of the act as it currently stands.

We had another situation dealing with the question of access, both Eaton's and Simpson's and all of these. The purpose in a strike situation is to get it over with. We had one situation in the city of Toronto with the Regis hair salons—these are hair stylists, not the most militant trade unionists in the world—where we had over 12 hair salons, most of which were located inside in the big department stores, about six people in each store; the total number of persons in the city of Toronto was 100. They couldn't picket in front of their salon; they couldn't picket in front of their store. They were expected, all six of them, to picket the 26 entrances to the Scarborough Town Centre, which is ludicrous. Striking rights are meaningless for those people,

Of course we went to the court. Do you know what the court said? The court said, first of all, "Well, you haven't proven there's any damage yet, because the strike hasn't been going long enough." Four months later, when we got in front of the court again, they said, "Well, now the strike's over it doesn't really matter anyway."

So it is necessary, because when there is a strike situation it is the desire of the union, the desire of the employees, to affect only that employer and not every other employer in that mall. But what is happening is a conspiracy because of the financial dependence, of those large department stores in particular, with the mall owners.

A further area of concern in the changes in the act is the question of contract agencies where it affects cafeterias and so on. We applaud the efforts to provide successor rights in those areas, because we have had a number of cafeterias in the last couple of years in Windsor, Talbotville and Oshawa, where for 25 years they have negotiated collective agreements and then, when it comes time, the company tenders it out and somebody comes in with cheap labour and we have to start all over again. Some of the people are dumped, conditions are changed, and the bargaining process and the rights of those employees are infringed upon in a manner that is unconscionable.

I have attempted to provide some examples. I will take any questions you might have. I can only say that, from the point of view of our union, legislative change is long overdue. I hear a lot of arguments about balance. We have to provide balance, because there is none right now. There is no balance because it's weighted so heavily in favour of the business that employees have no meaningful rights in a number of these service sector and retail situations.

**Mr Ward:** I'd like to thank you for your presentation and the very compelling arguments you make on

behalf of the retail workers union in favour of Bill 40 and the amendments that are included in that bill.

Just so I understand, in one incident obstacles were in place as far as organizing taxi cabs in Toronto, I believe you said, where the employer abused the list provision during certification and included names of people who are dead as well as the Toronto Maple Leafs. Did I hear you correctly?

**Mr Collins:** Absolutely correctly. It is a matter of record today.

**Mr Ward:** And how long did this delay the certification?

**Mr Collins:** At this point, 14 months. We have not yet resolved it. As a matter of fact, the process will be stretched out—we know it well—to the type of time frame we had in Hamilton. Except you can multiply that: Instead of the 300 people who were involved in Hamilton, we have 5,000. The process is impossible where you do not have true and accurate information if you're talking about that kind of number, because under the current process, board officers have to examine, they have to go out and find all those people and come back and report: "Yes, it's right, he's dead," or "Yes, he belongs to the Toronto Maple Leafs hockey team; he's not a cab driver." So it's a ludicrous process right now.

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**Mr Bisson:** Just to get a handle on something, you were saying you had some 50 certification applications before the board within the last year and a half?

**Mr Collins:** That's correct.

**Mr Bisson:** Of that, how many of those had petitions?

**Mr Collins:** Almost all of them.

**Mr Bisson:** And in almost all of those situations, let's say 90% or whatever, where did the petitions, in your mind, come from?

**Mr Collins:** In all instances, the petition has to be dealt with and the board has to rule, so in all those situations it came from employer involvement in the petition.

**Mr Bisson:** Were you able to prove that through the—

**Mr Collins:** Yes, we were, and as a result of many of them we were certified, but it was the delay of the process that counted.

**Mr Offer:** Thank you for your presentation. I know you're certainly well aware of the organizing procedure, so in your opinion, is there ever an occasion in an organizing drive where an employer during that drive expresses an opinion where it would not be viewed as intimidating coercion, by you or by the employees?

**Mr Collins:** I guess that depends on where it's done and when it is done, but in most cases it's done to a captive audience, and that is considered intimidation, in the same way that discipline is imposed or instruction is imposed. The employer opinion is quite clear when it is done on work time.

**Mr Offer:** The reason I asked is that it is permitted under the legislation and we might be getting into something that's very deep and fundamental, based on that response.

The second question I have is whether in an organizing drive there is ever, in your opinion, an occasion where not

only the employer but sometimes the union seeking certification may be involved in activities that might be viewed by the employees as intimidating or coercive?

**Mr Collins:** The only thing I can say from my experience is that's not the case. There is certainly access for any employee to bring any kind of complaint against either party under the current act.

**Mr Offer:** I have a question based on that response. If we are seeking to protect the rights of the employee from coercion and intimidation in an organizing drive, from whatever source, Bill 40 contains a very steep and severe penalty now on the part of the employer if the employer uses intimidation or coercion. Do you believe that in order to fully protect the employee, that provision should be expanded to not only include the employer but also the union so that there is absolute protection to the employee in an organizing drive?

**Mr Collins:** I think it's a different set of penalties involved. The employer wins. The union neither wins nor loses. It's the employees who lose, and the employees are a party to the certification process. The employer has nothing to lose, when it gets right down to it. The onus is often upon the employee or the union to prove what is done in some very closed circumstances.

**Mr Villeneuve:** I won't be long. Of the 20,000 or so employees you represent, are any of them in essential services?

**Mr Collins:** In defined essential services, no.

**Mr Villeneuve:** So you have not been subject—or you maybe have. Have you been subject to binding arbitration?

**Mr Collins:** No.

**Mr Villeneuve:** What's your opinion of binding arbitration?

**Mr Collins:** It should be the last resort. It should only be where there is no ability to bargain or there's no demonstrated will by one party or the other to bargain.

**The Chair:** Thank you, gentlemen, Mr Collins and Mr Donnelly, both appearing here on behalf of the Retail, Wholesale and Department Store Union. Your union has been active in a number of legislative issues with the government of Ontario, some disappointing, other perhaps less disappointing. In any event, I want to thank you on behalf of the committee. I'm not referring, in terms of "less disappointing," to this legislation, of course; I am referring to the Sunday shopping legislation.

**Mr Collins:** Do I get the opportunity to address this group on that question too?

**The Chair:** Sir, I'd love to give you another half-hour to address that group, but you've made your point and I thank you for that. I thank you for being here this evening. You've played an important role in this process and we're grateful to you. We trust you'll keep in touch, and you're welcome to do that.

You and all others who have made presentations, of course, can receive copies of Hansard transcripts of your presentation or others' presentations by writing to your MPP or getting hold of the clerk of the resources development committee.

We are adjourned until 10 am tomorrow morning.

The committee adjourned at 2026.











\*In attendance / présents

**Clerk pro tem / Greffier par intérim:** Decker, Todd

**Staff / Personnel:**

Fenson, Avrum, research officer, Legislative Research Service

Kovacs, Jerry, research officer, Legislative Research Service



## CONTENTS

Tuesday 25 August 1992

<b>Labour Relations and Employment Statute Law Amendment Act, 1992, Bill 40</b> . . . . .	R-783
Ottawa and District Labour Council . . . . .	R-783
Mohamad Alsadi, president	
Gloucester Chamber of Commerce . . . . .	R-786
Jacques de Courville Nicol, first vice-president	
Canadian Union of Postal Workers . . . . .	R-790
Evert Hoogers, national representative	
Automotive Industries Association of Canada . . . . .	R-794
Dean H. Wilson, president	
A.J. Roberts, chairman, government relations committee	
Public Service Alliance of Canada . . . . .	R-798
Daryl Bean, national president	
Transportation-Communications International Union, Canadian division . . . . .	R-802
Don Bujold, national secretary-treasurer	
Canadian Tire Dealers' Association, Ottawa Valley Dealer Group . . . . .	R-806
Des Keon, chairman	
Gord Reid, member	
Rick Nelles, member	
Canadian Business Forms Association . . . . .	R-812
Albert Lacroix, executive director	
Ray Coutu, director of public affairs, Canadian Printing Industries Association	
Grace Streek, human resources specialist, The Print Key Inc	
Hotels, Clubs, Restaurants and Taverns Employees Union, Local 261 . . . . .	R-815
John Kearney, vice-president	
Ontario Confederation of University Faculty Associations . . . . .	R-820
Dr Saul Ross, president	
Retail, Wholesale and Department Store Union . . . . .	R-824
Tom Collins, Canadian director	

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \*Chair / Président:** Kormos, Peter (Welland-Thorold ND)
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- \*Daigeler, Hans (Nepean L) for Mr Conway**
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- Dean, Tony, administrator, office of collective bargaining information, Ministry of Labour
- O'Neill, Yvonne (Ottawa-Rideau L)

*Continued overleaf*



R-28

R-28

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# Legislative Assembly of Ontario

Second session, 35th Parliament

# Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Official Report of Debates (Hansard)

Wednesday 26 August 1992

## Journal des débats (Hansard)

Mercredi 26 août 1992

### Standing committee on resources development

Labour Relations and  
Employment Statute Law  
Amendment Act, 1992

### Comité permanent du développement des ressources

Loi de 1992 modifiant des lois  
en ce qui a trait aux relations  
de travail et à l'emploi



Chair: Peter Kormos  
Clerk pro tem: Todd Decker

Président : Peter Kormos  
Greffier par intérim : Todd Decker

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### **Table of Contents**

Table of Contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

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### **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday 26 August 1992

The committee met at 1000 in the Ottawa Hilton, Ottawa.

### LABOUR RELATIONS AND EMPLOYMENT STATUTE LAW AMENDMENT ACT, 1992 LOI DE 1992 MODIFIANT DES LOIS EN CE QUI A TRAIT AUX RELATIONS DE TRAVAIL ET À L'EMPLOI

Consideration of Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment / Loi modifiant certaines lois en ce qui a trait à la négociation collective et à l'emploi.

#### CANADIAN GUARDS ASSOCIATION

**The Chair (Mr Peter Kormos):** It's 10 o'clock and we're going to begin. The first participant is the Canadian Guards Association. Sir, you've got written submissions that have been distributed that will form part of the record. Please tell us your name and your title and go ahead with what you want to say. Please try to leave the last half of the half-hour for exchanges and questions.

**Mr Stuart Deans:** My name is Stuart Deans. I'm president of the independent union, Canadian Guards Association, which represents exclusively security guards in Ottawa, Toronto, Hamilton, Thunder Bay and Sudbury. Our union today recognizes the urgency for labour law reform, and we commend this government for its foresight and wisdom in bringing labour relations into the 1990s through Bill 40. I will address my comments squarely on the issue of security guards, as this committee has heard from and will continue to hear from more eloquent speakers than I in regard to the remaining content of Bill 40.

The amendments to the Ontario Labour Relations Act contained in Bill 40 clearly focus on the issue of conflict of interest while carefully considering the needs and desires of the tens of thousands of security guards in Ontario.

It does not surprise me that there are organizations and perhaps even another guards-only union which have appeared or will appear before this committee condemning the repeal of section 12. As you have already repeatedly heard, section 12 is unique as a statutory prohibition for guards in Canada. It would be impossible for the Canadian Guards Association to go into any other jurisdiction in Canada and seek to represent non-guards. Should the Canadian Guards Association wish to participate more fully in the labour movement of Canada or wish to enlarge its membership and diversify in its representation of workers in this country, it is restricted by a provincial statute. There is no question that section 12 is extraterritorial in intent, and one can only assume that the lawmakers of the day did not fully appreciate, understand or have all the facts relevant to the security guard industry before them.

Section 12 continues today to offend the security guards of this province. When security guards in Ottawa

need only look across the river into Quebec to see the substantial differences in wages, benefits and working conditions that organized guards with the United Steelworkers of America are receiving, it becomes glaringly obvious that the need for change is immense.

Security guards in Ontario are among the working poor. Earning usually minimum wage with little or no benefits at all and working long hours in sometimes desperate working conditions just to make ends meet, it is of little comfort to guards to hear that various organizations, unions and political parties purport to know what is good for guards, and that by maintaining the status quo these groups are protecting guards from a conflict of interest. The fact of the matter is, security guards are quite capable of making informed decisions regarding their respective employment relationships, and the state need not protect them.

Section 12 has an established history of preventing security guards from participating actively in the labour movement and achieving their common goals of improving wages, benefits and working conditions and establishing decent levels of standards and training. It is long overdue that security guards in this province receive those same rights and privileges enjoyed elsewhere in Canada. It's time to restore the dignity and personal integrity which this statute has deprived them of for decades.

In March 1963, just six days before I was born, the then president of the Canadian Guards Association wrote the Minister of Labour complaining about the effect of legislative prohibitions placed on security guards. I'll read certain portions of the letter, which is contained in the draft. It was to the Honourable H. L. Rowntree, Minister of Labour:

"Dear Sir:

"It is my considered opinion that article 9"—now section 12—"of the Ontario Labour Relations Act restricts and discriminates against security guards, while other articles of the act fail to properly provide protection and equitable treatment of them by employers...."

Then on the next page: "I wish to draw your attention to the unfortunate situation now confronting guards who, in the employ of Barnes Investigation Bureau Ltd, and providing protection to the plant and installations of Regent Refineries Ltd, are now faced by unemployment. It seems Regent Refineries Ltd cancelled its contract with Barnes Investigation Bureau Ltd, only because the guards had organized. It is lamentable that the Ontario Labour Relations Act does not protect these men under these conditions...."

"It would seem that employers such as Regent Refineries, the Barnes Investigation Bureau and the Pinkerton protection agency are exploiting weaknesses in the Ontario Labour Relations Act to further their own ends at the expense



of lawfully organized workers and in defiance of the purpose of the Ontario Department of Labour.

"If I may diverge for a moment to refresh your memory, certification was granted to the guards employed by Barnes and working at Regent on March 8, 1963. On March 11, 1963, these guards were notified by Regent that 'they were finished by the weekend.' On March 17, 1963, the Pinkerton agency began supplying the guards at Regent....

"We at the Canadian Guards Association are sure that you, Mr Minister, will be of sympathetic interest in this situation. If you wish further information, I will be pleased to supply same....

"Yours truly,

"Gordon Simpson, President

"The Canadian Guards Association"

Again in the early 1970s section 12 was the subject of debate in the Legislature, and the NDP MPP for Windsor West, Mr Hugh Peacock, was quoted as saying in response to Bill 167, an Act to Amend the Labour Relations Act:

"The fact is that one essential thing he is denying to such a union, which will have to exist on its own, without benefit of support by any other class of employees except guards, is the research facilities of a central labour organization.

"The second thing he is denying them is representation on such matters as workmen's compensation and unemployment insurance, because it is just not possible, I suggest to the minister, for a union based on such a narrow membership structure as security guards, who are notoriously underpaid, to provide for themselves all the various kinds of services that central labour bodies now provide for their smaller affiliates.

"And his proposition that plant guards somehow have a particular responsibility to their employer, above and beyond what other employees have to their employers in a normal industrial establishment, just does not wash. It certainly is not a responsibility that extends beyond the employer-employee relationship to this act, but that is what the minister is saying. He is saying that the responsibilities of a security guard, in carrying out his assignments as an employee, are much greater, and because they are much greater, they are therefore going to be nailed down by the wording of this clause.

"I say to the minister that the responsibility of such an employee as a security guard is no more and no less than it is in any other class of employees. If he does not fulfil his assignment to the satisfaction of his employer, his employer then has reasonable cause to dismiss him or take other disciplinary measures. There should be no other way of treating a security guard distinctly from the kind of employer-employee relationship that exists between any other group of employees."

By the mid-1980s, my union had resigned itself to toiling at arm's length from the labour movement, completely alone and legislatively ostracized. With the assistance of the Canadian Labour Congress and in particular the USWA, the Canadian Guards Association rekindled its passion to overcome the statutory prohibitions of section 12 with the advent of the Canadian Charter of Rights and Freedoms.

As you have already heard from the director of District 6, USWA, Mr Henry Hynd, a lengthy constitutional challenge to section 12 before the Ontario Labour Relations Board was unsuccessful, and applications for certification affecting some 5,000 security guards were outright dismissed.

Despite the labour board's decision, the resolve of security guards to join the union of their choice remains unfettered. As much as lawyers, academics and courts relish the opportunity to study, interpret and argue technical points of law such as section 12, it is incumbent on politicians to ensure that antiquated pieces of legislation like section 12 go the way of the dinosaurs where, as a practical matter, there is no substantive reasoning for maintaining the status quo.

A security guard employed to protect persons and property of an employer has a definite role to play in the core operations of that employer, but clearly a guard would not blatantly disregard his or her duties in consideration of his or her fraternal relationship to any other employees. To suggest anything of the sort is overtly irresponsible and without foundation. The very nature of a security guard's job cannot be said to magically import a substantive conflict of interest requiring the legislative redress afforded by section 12. If this in fact were the case, then surely many, if not all, other jurisdictions in Canada would have adopted a like or similar approach to security guards in their respective statutes.

Mr Hugh Peacock, OLRB member, in his dissent on our constitutional challenge, I think sums up the plight of security guards very well:

"Section 12 is not a neutral provision. Its purpose is not just to deny certification to certain trade unions—so-called mixed unions—which is a regulatory function, but to render futile the desire of workers who are guards to associate themselves with other workers for their economic wellbeing and broad democratic and social goals.

"It is a purposive, direct infringement, a direct breach of section 2(d) of the charter. Its purpose is not to deny certification. That is the regulatory sanction of the section. Its purpose is to prevent association, whether by membership affiliation or integration, of associations of guards with associations of other employees. Section 12 aims to keep guards apart from other workers; not just in separate bargaining units, a consideration clearly related to collective bargaining, but in all aspects of occupational and extra workplace associations that trade unions engage in—municipal, provincial, national, international, sectoral—wherever organizations which include other kinds of workers meet."

This government has clearly spent considerable time evaluating the impact of section 12 from all avenues and has without question introduced legislation which answers the concerns of everyone, especially in regard to the question of conflict of interest.

It is my fervent belief that these amendments will facilitate a greater understanding of workers' issues and serve as an instrument for greater tolerance between guards and other workers. The honouring of respective collective agreements during labour disputes involving only one bargaining unit or several is not a novel concept.

During a labour dispute or strike where guards are in a separate bargaining unit, since it was established that there was a potential conflict of interest, it seems completely reasonable that guards will continue to perform their duties or risk being disciplined accordingly.

1010

In closing, there currently exists no real choice for security guards in the province of Ontario for strong trade union representation. The Canadian Guards Association attempted to provide its membership with improved service through its relationship with the United Steelworkers of America. The Canadian Guards Association arrived at this decision simply because it could not reach a size to properly service its own members. It is vastly too expensive for us to obtain the services of professionals in the industry of labour relations, especially lawyers.

A decision of the Ontario Labour Relations Board in 1988 surrounding the service contract between the Canadian Guards Association and the Steelworkers found the two organizations to be affiliated under section 12, either directly or indirectly, and as a result the Canadian Guards Association was in jeopardy of not being able to represent its existing membership, nor could it continue on any organizing of security guards.

The Canadian Guards Association has a group of security guards in Sudbury who are employed by Pinkerton's of Canada Ltd. This, as of today, is a group of 125 guards who have not seen a renewal of their collective agreement since 1987. The reason for this was that after the decision of the board in 1988, when it was time to renew the collective agreement, Pinkerton's of Canada refused to bargain with the Canadian Guards Association and, in support of its position, quoted section 12.

Although we were successful in negotiating with employers of the other CGA bargaining units, Pinkerton's was not as cooperative and maintained its position under section 12. There are 125 employees in Sudbury who are anxiously awaiting labour law reform. Thank you.

**The Chair:** Thank you. Mr Offer, five and a half minutes, please.

There's French-language translation taking place, and the little receivers and the phones are available on your right.

**Mr Steven Offer (Mississauga North):** Thank you very much, Mr Deans, for this submission. I have a few questions. The first is: As you've probably indicated in your presentation, others have come before us; unions that have been representative of security guards have stated the other side of the case, saying that there is an inherent conflict of interest and that the section 12 now within the legislation should not be changed. In fairness, they said they support all the other provisions under the bill, but not that.

I am wondering, firstly, whether you can help us out in coming to grips with this clear difference of opinion between unions that are representing security guards.

My second question: Section 12 of the Labour Relations Act speaks to a guard protecting the property of an employer. Bill 40 speaks to a guard basically looking at the

protection, against employees, of an employer—to me there's a significant difference in the job characterization—and whether you see this as a difficulty, whether this is something that has been changed. Is there a difference between a guard who protects property and a guard who is really there to monitor employees?

**Mr Deans:** First, in response to your second question: The fundamental nature of a security guard's role is the protection of persons and property. The amendments to the act, as I understand them, address the issue of monitoring other employees. That is a function which is working to address the conflict of interest in a particular work setting. The common element for security guards in all cases is going to be the protection of property. I think what the act is now trying to do is to address the situation of the monitoring of other employees and where that may give rise to a conflict of interest. The act, then, I think, is affording proper redress in those circumstances by allowing the board to place that group in a separate bargaining unit.

United Plant Guard Workers of America's position and the position of the Canadian Guards Association, I think, are more directly related to the long-term outlook of that union. That union has in the past and continues today to take a position very different from ours. Ours has been a position that's been ongoing for the last 30 years, as you've seen in my document. The Canadian Guards Association has always been of the view that these are restrictive prohibitions that should not exist. I can't explain why the United Plant Guard Workers of America would take a position contrary, other than I feel that it's for their own self-serving interests.

**Mrs Elizabeth Witmer (Waterloo North):** Thank you very much, Mr Deans. I think Mr Offer has certainly made mention of the fact that we've heard some conflicting opinion as to whether or not section 12 should be altered.

I guess I'd like you to tell me briefly, because there certainly has been a tremendous amount of concern expressed by employers who have appeared before us about the potential conflict of interest if you were to be in the same bargaining unit as the employees: How do you see that not being a problem?

**Mr Deans:** I wouldn't say it's not going to be a problem. I do think that the way the amendments are proposed—that is, to allow the parties to make representations with respect to a conflict of interest in an application for certification before the board—the board will then be in a position to be able to determine that there may arise a conflict of interest. In those circumstances the board would be empowered to place that group of employees, who are clearly monitoring other employees of a common employer, in a separate bargaining unit.

I think what is at issue here really is the choice of bargaining agent. That's the real, substantive issue before the committee. The choice for security guards for strong trade union representation, I think, should be maintained. I think the guards should have the ability to choose their trade union to represent them. They have an employee-employer relationship that I think the act or the amendments to the



act are addressing quite properly in the monitoring of other employees. If the board determines that they ought to be placed in a separate bargaining unit, then the board will be empowered to do that.

**Mrs Witmer:** So what bargaining agent would the Canadian Guards Association like to represent it?

**Mr Deans:** The direction that the Canadian Guards Association has made in terms of direct representation has been towards the United Steelworkers of America, but that is a choice that cannot be made until the amendments to the act are passed or not passed. But I can say that historically in the last five years we have developed a long-standing relationship with the Steelworkers and that is the direction in which we are heading.

The ultimate choice of bargaining agent representation for our locals is vested through a constitution with the locals. They will ultimately choose their own bargaining agent. They may elect to remain the Canadian Guards Association; they may elect to join any other union; they may elect to join the Steelworkers.

**Mr Norman W. Sterling (Carleton):** I'd just like to ask one question. If you were both represented by the same bargaining agent in a particular employee-employer situation and there was a strike—security guards are basically on the opposite end than the employer—do you think the employer would be stretching it to say that he was concerned about whether or not his property was being properly secured?

**Mr Deans:** I think he would be, simply because as a practical matter security guards are employed to do a very specific function. Clearly, the management of a company that employs both has, through its own collective agreements, the right to discipline employees.

1020

**Mr Sterling:** We in politics are continually concerned about putting the fox in charge of the hen-house. Isn't that sort of what you're suggesting?

**Mr Deans:** I don't understand how that analogy can be made, the fox in charge of the hen-house. An employee has a particular responsibility and a particular loyalty to his employer, no different than an office unit and a production unit.

**Mr Sterling:** But those loyalties break down during the period of a strike, as you know. There are very hard feelings in some cases.

**Mr Deans:** Perhaps that may be. That's a relationship that gets developed or not developed depending on the particular situation or particular strike. When an office unit goes on strike and the production workers have their own collective agreement, they must honour their collective agreement and they must report to work or they will suffer the same disciplinary measures. Security guards will be going out and they will be doing the same role.

In that situation where they are in separate bargaining units, they would have to report to work. They would have to perform their duties the same as they would do in any other circumstance. Failing that, they're risking their own

economic wellbeing, their own ability to pay their mortgage and their car payments etc.

**Mr Sterling:** Yes, but that argument can be made for any worker within a strike situation. If the legislation goes that way, would you support the inclusion of the right of the employer to have replacement workers for the purposes of securing the property of the employer? In other words, if this government decides you can't have replacement workers—let's assume that's passed—would you support the inclusion of a clause which would allow replacement workers for the securing of the property of the employer during a strike if the employer chose to do so, if the security guards were part of the same bargaining unit?

**Mr Deans:** If I understand your question correctly, the guards would be covered by the same collective agreement as the striking workers. Is this what you're suggesting?

**Mr Sterling:** Yes.

**Mr Deans:** And they would be on strike with the rest. This government has put forth anti-scab legislation, which I feel is appropriate. If guards were included in that unit, then I would feel that the act as it would read should apply no differently. I find it offensive that legislation would somehow segregate or treat differently security guards.

**Mr Sterling:** You are being treated differently.

**Mr Deans:** Pardon me?

**Mr Sterling:** There is recognition in this legislation that you are different.

**Mr Deans:** Correct. I think in those terms the proposed amendments properly and squarely address that issue. They address it in terms of an ability for the board to separate and not to allow that circumstance to occur by having guards placed in separate bargaining units. I don't think the fraternal relationship between the same bargaining agent is going to import some form of blatant disregard for the employee's primary responsibility to his or her family—that is, to maintain his or her employment relationship and be able to bring home a paycheck.

**Mr Len Wood (Cochrane North):** Thank you very much, Mr Deans, for an excellent presentation that you've brought forward. I notice that on the second-last page you said it's your fervent belief that this legislation will bring a better understanding between workers' issues and "serve as an instrument for greater tolerance between guards and other workers." It's an interesting quotation that you've brought forward.

One of the questions I wanted to ask you was, are you aware that in some of the other provinces guards can belong to the union of their choice?

**Mr Deans:** I am aware that this is the only province in Canada that has a restricted provision. There's no question about that.

**Mr Wood:** Ontario is the only province.

**Mr Deans:** That's right.

**Mr Wood:** In the city of Ottawa, where we are right now, I'm just wondering what knowledge you might have about the federally employed guards and how the system

works. Perhaps you can just bring me up to date a little bit on how that works with federally employed guards.

**Mr Deans:** Federally employed guards are quite capable of being represented by any trade union. The Canada Labour Code does not allow for a distinction to be made. They can be placed in the same bargaining unit with other workers; they can be placed in separate bargaining units. The fact is that guards in the federal sector in Ottawa here, where there's a substantive number of federal buildings etc.—that work is doled out, in many areas, to corps commissioners, to contract agencies and, in a lot of cases, to security guards who are employed directly by the federal government.

In that situation, in particular the museums here in Ottawa, the guards are represented by the Public Service Alliance of Canada and they are covered by the Public Service Alliance of Canada collective agreement, which covers not only guards but the rest of the workers under that collective agreement as well.

**Mr Wood:** I find it interesting that your union has been trying very hard, going back 30 years, to get the attention of the governments and this is the first time that people have listened to the concerns have recommended action, with Bill 40 being brought forward.

We've had some discussion over the four weeks we've been in hearings on the balance of power and the level playing field the workers have compared to the employers' rights. The legislation is really designed for domestic security guards, part-timers, women in low-level service jobs. In your opinion, would this group of people which this legislation is intended to give a voice to conspire to put their employers out of business just by having the right to join a union?

**Mr Deans:** Definitely not. With people working in the low-wage sectors, people working in the service industry, there certainly would be no conspiring to put anybody out of work. The service industry is a growing, fast-paced industry with a high level of turnover.

What the workers are looking for, I believe, is no different from what workers were looking for 30 or 40 years ago, and that is the right to be represented, the right to collective bargaining, the right to have some established standards, to have a collective agreement put in place to help them in their own work lives and in terms of their social lives to be able to plan ahead in order to make major purchases or whatever. They are looking for the representation, and this is the first time this group of workers has really been well looked after.

**Mr Wood:** The question of replacement workers has been raised. I'm going to be brief, because I know Mr Bisson has a question. I personally go back about the same number of years your union has been trying to get legislation of this kind brought in. In my case, it involves death on the picket line as a result of replacement workers in my riding. I'm pleased to see you've brought this; it relates incidents that have happened to me personally and to some of the workers in my riding over the last 30 years, so thank you very much.

**Mr Gilles Bisson (Cochrane South):** I'm going to roll both of my questions into one, because I know there's not a lot of time. I'm interested in the line of questioning Mr Sterling raised. There's somewhat an assumption, because I've heard this argument before, that somehow if security guards are organized, are they in a conflict position when it comes to responsibility to the employer?

To give a bit of background, in one of my former jobs I worked for the gold mines up in Timmins. Security guards as such obviously were not organized, but what we called gatepeople were, who for all practical purposes were security guards. I know of many people who were caught, people from within our own bargaining units. I say that with a little levity, but my sense is that employees take their responsibility seriously.

When somebody raises that concern, how does that make you feel? You're a professional person, and the sense is you're a security guard, I take it?

1030

**Mr Deans:** I find it offensive that somehow guards will conduct themselves differently given a labour dispute. People working in the guard industry are people who are there by choice, people who are working in the law enforcement field and understand clearly what their jobs and responsibilities are in that capacity. Joining a union to represent their working issues is not going to change the people in the industry. It's not going to make them change their loyalty with respect to their trade union brothers and sisters. They're still employed to do a job and they're going to continue to do that job.

I think my statement that Mr Wood was addressing was that it will help on picket lines. It's going to help, when guards become more active in the labour movement, to truly understand what the concerns of the workers are and vice versa. The workers are going to then understand what the roles and responsibilities of the security guards are going to be. Given a labour dispute, on a picket line there's going to be much more tolerance, given what the security guards' role and functions are, between the workers and the guards. That's going to go two ways.

**The Chair:** I want to thank you, Mr Deans, for appearing here today on behalf of the Canadian Guards Association and speaking to this very important issue, about which there has been some significant concern by any number of groups. You've obviously provoked the interest of the members of the committee. We are grateful to you.

CANADIAN UNION OF PUBLIC EMPLOYEES,  
LOCAL 503

**The Chair:** The next participant is CUPE Local 503. Sir, please come forward. Tell us your name and your title, if any, and then tell us what you will, trying to save at least the last half of the half-hour for conversation and questions.

**Mr David Jewitt:** My name is David Jewitt and I am a counsel to CUPE Local 503. I wish to thank the committee for allowing CUPE 503 to be present and make a submission here this morning at 10:30. The reason we sought a special slot, as it were, to make the submission is because of the uniqueness of CUPE 503's position in the Ottawa-Carleton region. Some of the issues you're examining in



terms of these recommendations, this particular local and this region have experience with. I'm not certain that the committee would be familiar with this. I thought it would be of assistance and the local thought it would be of assistance that our experience be put forward so that you can see that some of these recommendations are not as much of a concern as you might otherwise think.

Second, in terms of the submission I'll be making, there are a few comments. I'll tell you a little about myself. I'm a labour lawyer of some 12 years' experience, so I'll be touching on a few areas that, in my submission, are really important areas that the proposed legislation is looking at. This is not going to be from a technical standpoint, but more from the standpoint of the level playing field you've been talking about. I will address some comments on that broader issue as I go through. I will not be touching on many issues but will just focus on the ones that I think are of particular relevance to the local and to the committee.

First, with respect to the proposed changes to the right to organize and the issue of managerial and supervisors being contained in a bargaining unit or professionals being put into a bargaining unit, CUPE Local 503 was recognized in 1945, I believe, by the city of Ottawa as the bargaining agent, and it has had a healthy bargaining relationship with the city since that time.

In the early 1970s, an issue much like the one you're dealing with here arose across the province about supervisors. The solution was much like the solution being proposed. A separate local was carved out, and that local represents only supervisors.

Third, another local was this time created. It wasn't carved out of CUPE national, but rather was formed from the people themselves, and that was dealing with just the professionals. That institute is called the Civic Institute of Professional Personnel.

That same structure of these three distinct groups has been maintained with the regional municipality of Ottawa-Carleton's workforce as well. It has worked extremely well, and we indicate that because you've heard a lot, no doubt, about the competitiveness of unions and the difficulty with managing people who are in the same unit; those kinds of concerns. In fact, the unions themselves have their own process by which they agree when a person should be in one unit or another and what his duties are. The units themselves have a community of interest, and the professionals are quite happy to negotiate their terms and conditions of employment along a broad-based group, at the same time preserving their individual professional status as they see it.

In effect, what we're trying to submit in summary with respect to that point is that it works. You can look to this region, where there are some 8,000 employees divided into that configuration, and there has not been significant, if any, labour unrest or difficulties in working that kind of mechanism.

I might add, going to another aspect of the legislation, dealing with first-contract arbitration, that the proposed changes in effect—and it's argued—guarantee that right after 30 days.

This particular local has not had a strike in either the city or the region ever. The reason it has not is that it has voluntarily agreed to go by way of process of binding arbitration. There have been different debates at different times about whether that is a good mechanism in all circumstances, but what we can indicate is that in terms of industrial peace it has worked extremely well: The parties resolve their issues and there are usually very few issues left outstanding after collective bargaining, through the process of binding arbitration.

Again, this is not the preferred route for all employers or all unions, but as an enlightened approach that can be used at times to avoid the continual adversarial aspect and the negative consequence of a strike, I can indicate on behalf of CUPE 503 that it can work, and it can also promote the industrial harmony that is so essential.

At this point I'd like to look quickly at the issue of petitions. The comment I would direct to the committee is one that comes out of 12 years of dealing with this and dealing with other labour lawyers. In the privacy of our own living rooms, as it were, I think we could probably say that the percentage of petitions that are legitimately voluntary under the old system is extremely low. By that, we mean you may not be able to establish, given the rules of evidence, that there has been some influence on the petitioners to bring the petition, but at the same time, those of us who are in the trenches know something has gone on, and we could find this out later.

I can't say this in front of the board, nor can anyone else, but I can indicate to you that this whole area is not just an issue of level playing field and power; it's an issue of resources and taxes. More certification proceedings are held up through the time spent on testing the voluntariness of a petition filed after the certification application, I would say, than is spent in actually dealing with other issues in the certification itself.

In that regard, CUPE Local 503 applauds the recommendations that say petitions after the application date will not be considered and that if a member is going to withdraw his support, then the logical time is prior to the employer becoming fully aware that the petition is there.

That then leads me into the issue of the membership fee adjustments. These are smaller points, but there may be some debate on these. You should be aware as a committee that the resources that go into determining whether there has been one non-pay allegation can consume any number of days of hearing in front of the board.

#### 1040

As one example, a case I was involved in involving 800 employees dragged on for over two and a half years; two unions were involved. A vote was finally taken, which is what the point of the legislation is; it says, let's get to the democratic part of this. We had a vote. That vote was not going to be counted until two days later, after we dealt with another two days of issue about one card; somebody allegedly had not paid his \$1.

I indicate that only because the legislation and the proposed amendments are obviously designed so that the wishes of the individual workers can be arrived at and can be determined. What this committee may not be aware of

is how much time and resources are wasted and spent in dealing with issues that are far too technical of that nature.

There are all sorts of legal reasons why those things happen, but you're not here to deal with those; you're here to change those. On behalf of CUPE 503, we applaud that change to make it simpler. Generally, the more simple or direct approach is going to achieve the objectives you are looking to achieve, rather than make matters more complicated, because then people like myself only make money out of arguing about the technicalities. Frankly, there's lots of work out there; we don't have to get involved in that kind of technical approach.

The next area, and this is again unique to Ottawa-Carleton, deals with access to third party's property. Let's call it the shopping mall recommendations. You've heard about the Eaton's strike; you know about the Eaton's strike. In Ottawa we had a very anomalous situation. The Eaton's in the Rideau Centre happened, by happenstance, to be built on what was a former right of way between Rideau Street and Laurier Avenue. The whole mall is built over that right of way, which is protected under the conveyancing procedures. The picketers were allowed to walk throughout the mall as long as they didn't transgress some invisible line, that no shopper ever knew existed, on this right of way. So in Ottawa they were completely free to picket, to leaflet, deliver information to the shoppers who were going to Eaton's along that right of way.

In Bayshore, you have another Eaton's store, you have another mall. The shopper goes to one or the other. They don't know in 1992 what the right of way is or isn't. There is no right of way. So at the same time you have that labour dispute in effect, you have one store just by happenstance having people picket in front of it; you have another one where the law at that time would say: "You cannot be there. You have to go out on the sidewalk, out by the property."

I'm certain the committee is also familiar that the same issue arose in Toronto dealing with the right to picket there, and there the issue was that you could go as far as the subway station.

So you have three completely different views as to where people can leaflet or demonstrate or distribute information or picket, all dealing with the same labour dispute. Again, we applaud and support the recommendations that suggest that those kinds of idiosyncrasies and anachronisms ought to be removed in 1992, where shopping malls are viewed as the public village square by most of our citizens.

I'm just going to touch on this next area. This is perhaps a bit more personal, but it's based on the experience that comes from dealing with employees. It deals with the level playing field. The area of recommendation I'm addressing deals with the changes to the unfair labour practices, to the automatic certification provisions and the questions that say: Is this going to reverse the balance of power? Is there a balance of power now?

I submit to you, you have to try and tell an employee what protections are under the act when you come in, in the middle of an organizing campaign. You try to tell him, "Don't worry, if you're fired or discriminated against, the act says you can be reinstated." But when you say to that

person, "But the hearing won't take place for another three months or four months, and in any event you still have to go through the board to do that," that employee is terrified. There are very few employees who are working at the level of position you are looking at who are going to be organized. I'm not saying just entry-level positions or lower-wage positions, but don't forget that a lot of these people do not have the sophistication or the experience to determine what that means. They need a quick recourse to the board so that the action speaks, because the employer is always there and they always have to go back.

Everyone here understands that there are issues of power no matter what field we're in: Politics deals with power, employer-employee relationships deal with power, and in that situation the employer has the power. No matter what we say or do here, they go back into that workforce and they have to deal with that. There are many numbers of ways we are never going to be able to even come close to addressing that, but the reforms that are put forward are a balanced and measured proposal, in our submission, to address some of those issues.

There are other comments. The issue of replacement workers is one we haven't had experience with here in Ottawa; I think those are political issues. You've heard the issue, and I believe you're probably well saturated with the debate on that point by now. I say nothing except that CUPE Local 503 certainly supports the recommendations that are being put forward at this time.

Flipping now to something that is less contentious, this is the grievance arbitration process. Again, I submit the recommendations ought to be applauded. The grievance arbitration route is the civilized way to resolve your dispute. Once you've got your contract, it's the way the worker and management sort out the differences that are going to occur in the relationship.

The experience here with CUPE Local 503 is that they have been very creative in how they've done that. They've also appointed mediator arbitrators, such as are being recommended, and it's worked very well. We have a panel system we've created ourselves. The workers appreciate that there's an avenue, a mechanism they can be heard in, and it'll get there quickly and they'll get it resolved.

Those are the highlights of what I would like to touch on with the committee. In conclusion, I would like to say something. I don't know how often the committee's heard it, but I'd like to applaud the government for the reforms it's proposed and the committee for the diligence with which it's looking at them and hearing the concerns of constituents throughout Ontario. From a practitioner's point of view, I can say this very easily and openly and candidly to you: These reforms are not altering a playing field; they are well overdue, they are measured and they are balanced, and the government and this committee, in terms of the concern with which you're looking at them, ought to be applauded. CUPE Local 503 does do that and thanks you for the time and also for the attention you put to those matters. By all means, let's get on with the work so that all of us can deal with this in a more balanced way in the future. Thank you very much.



**The Chair:** Thank you, sir. Ms Witmer, three and a half minutes, please.

**Mrs Witmer:** Thank you very much, Mr Jewitt. Although you compliment this committee for hearing people in this province, I hope the government is not only hearing people but is also prepared to take the differing viewpoints into consideration. If not, we've certainly wasted a tremendous amount of time and taxpayer money. It's great to listen, but if we're truly consulting, let's incorporate all the viewpoints.

It's obvious that you're happy with Bill 40. I would mention to you that although perhaps you are pleased, it's become increasingly clear that this bill is going to have some disastrous effects on people in the restaurant and tourism industry. Although it might work well for people such as yourself, certainly there are some very dire consequences for those individuals who are not yet unionized.

1050

However, I'd like to deal with your mention of the democratic process, and you talked about the petition. As the PC critic, I have been recommending that if we're truly going to have a certification process that is free of harassment or coercion from any source—and we have heard throughout the hearings that both employers and union leaders do engage in those activities—we should have an opportunity to fully inform all employees of what it means to join a union, what are the rights, what are the downsides, what are the consequences of going out on a strike; and once we've fully informed employees of what it truly means to join a union, to have a secret ballot vote. If we're really talking about democracy, we feel the most appropriate way for an employee to express his or her desire is through a secret ballot vote. I'd like to hear your opinion.

**Mr Jewitt:** It brings up a comment I made earlier that you've got to talk to an employee who is in the middle of an organizing campaign and tell him what his protections are. You then gauge the fear in his face, no matter what it is you tell them. I would suggest that if you were talking about everybody who was on a level playing field to start with, in terms of sophistication, education and otherwise, then you could talk about something that says, "Here, read this," for those who can read, "and now please submit your vote." You're not dealing with that in the workplace.

**Mrs Witmer:** But why can you not do that? If we're going to change the process and really empower employees and give them all the information necessary, why can that not happen and then a secret ballot vote determine their true wishes?

**Mr Jewitt:** It may have something to do with the power that exists in the employer-employee relationship right now, in the sense that it is a paternalistic approach. The employee is totally dependent on the employer for his livelihood. That means that for the employee to stand up and do something he knows the employer doesn't want him to do, it takes someone who is quite confident in his ability to survive on his own, and these people don't have that. They need a collective approach to say, "What are our rights?"

I think as well there's an issue here that is very seldom spoken of but I think has got to be addressed: As much as we talk about a simple, theoretical, intellectual approach to these things, life doesn't go without conflict, life doesn't go without some adversarial approach. In the power situation between an employer and an employee there is an element of it, and an employee has to be able to draw a line and say: "This is as far as I'm going. I need now to assert my right." The way that right is asserted, for that individual's dignity in this province, is through unionization and through collective bargaining.

**Mrs Witmer:** And not through a secret ballot vote.

**Mr Jewitt:** It's not voting for the Tories or for the Liberals, you know.

**Mrs Witmer:** No, it's empowering people to vote for themselves and make their own decisions.

**Mr Jewitt:** But they are doing it in a way that knows there's somebody else of equal power to balance out the power the employer has. The employer has the power of their economic livelihood and can dismiss them. Without the union, they can dismiss them and say, "You're gone, and all we do is end up paying you a bit of severance." That's the power the employer has. The union can come in and say, "We can redress that power," and that's the way the legislation is drafted. That's the way it's balanced. In my submission, what the proposed reforms do is help address that concern in the critical time when an organizing campaign is there.

I'll give you an example. Recently, there was a large grocery store where I was involved in the organizing campaign. Employers don't do this very often in 1992—they're much more sophisticated—but they fired the chief organizer. They fired the organizer and they fired one of the first people who signed the card. Immediately, all of a sudden employees in the store were going around on their own and approaching people, saying, "Are you interested in a union or aren't you interested in a union?" That campaign stopped dead after that firing. Up until that point, maybe 60 people had signed. It was a bargaining unit of 200. Despite demonstrated efforts over two weeks, people who were formerly opening their doors were closing their doors.

You can't convince me for a minute—in fact, the lawyer on the employer's side wasn't convinced for a minute either—that was completely voluntary on the part of the other employees. It was employer-supported. That was the nature of the fear that went through that employee group, just like that. That's what you're dealing with. You talked about a free vote and you're talking about employers still being able to make the same indication. You're not going to have a free vote.

**Mr Sterling:** I find your defence of not having a secret vote very specious. You must be a good labour lawyer if you can carry those kinds of arguments.

A question I have for you: You're very supportive of the shopping mall right to picket on private property. Would you be in favour of an amendment to the act which would allow adjacent shop owners to sue the union or give

them a right of action against the union for economic loss during a strike?

**Mr Jewitt:** A legal strike?

**Mr Sterling:** Yes.

**Mr Jewitt:** No. If they have a legal right to strike, what are you going to sue them for? If it's an illegal strike—

**Mr Sterling:** The adjacent owner, who has nothing to do with the dispute.

**Mr Jewitt:** But it's a legal strike.

**Mr Sterling:** Yes, but they're causing him economic loss on private property.

**Mr Jewitt:** I suppose it may be the sacrifice we all pay to have free and democratic choices of people to join a union, in that case. If that person happens to be affected by it—I may be affected by a Conservative government, but I can't necessarily say—

**Mr Sterling:** You can vote against it.

**Mr Jewitt:** I can vote against it, that's right.

**Mr Sterling:** But the poor shop owner sitting next to the other shop owner doesn't get any chance to vote. He has nothing to do with it.

**Mr Jewitt:** Maybe I don't understand your example. What I'm saying is that if it's a legal strike, if our law allows the worker to strike, then how can you argue for somebody to have a right of damages when they're exercising a lawful right? That's the answer I would give you.

**The Chair:** Thank you. Mr Hayes, you've been so patient.

**Mr Pat Hayes (Essex-Kent):** Thank you, Mr Chair. That's my nature.

**The Chair:** And that's a virtue.

**Mr Hayes:** Mr Jewitt, I'd like to compliment you on your presentation, and also your local, for how you have proven that you can sit down and negotiate, that it doesn't always have to be a strike if both sides can find some mutual ground.

Anyhow, there's something I want to find out. There seems to be so much emphasis from opposition dealing with the secret ballot vote. I'd like you to give us examples of some the length of time it has sometimes taken, how long it takes to even get to the vote and how long the vote takes, and how much money, maybe, it has cost the employers and employees or unions.

**Mr Jewitt:** A local example is the original organization drive with respect to the taxi drivers in Ottawa. That one was a heyday, if you wanted to get into technical objections about all sorts of things. Employee lists would be involved in that. That one took at least two years to get from the certification side of it to the point of a vote. It could have gone on longer if we hadn't reached a point where there was some relationship where we could actually agree on the constituency to vote. It was a very confusing issue. I'm aware of a case in Hamilton—I'm dealing with taxis again—that took five years.

As to costs, I think everybody here would have a sense of what a lawyer would charge per day for hearings, and

you're looking at days and days of hearings, plus the board resources on that. In the other case I referred to earlier, where the whole two and a half years of struggle came down to a day-and-a-half argument on a \$1 non-pay allegation, my estimate would be that you're talking \$50,000 to \$75,000 to each party in legal costs—never mind the resources of the board—for at least two and a half to three weeks' worth of hearings spread out over those two and a half to three years.

There are in the current legislation—not intentionally, because it was a long time ago it was drafted—significant gaps that allow those kind of delays to occur and those kinds of objections to take an unwarranted amount of time. I hope that answers your question.

**Mr Hayes:** Yes, it does. Do you feel that these amendments to Bill 40 will help in maybe clarifying some situations, where it will help to streamline things and take some of the loopholes out so there aren't games played, on either side?

**Mr Jewitt:** I do indeed. To get back to an earlier comment, I think there's been a lot of time and a lot of thought into doing that; I'm aware that the proposals now on the table are not the initial proposals, by any stretch of the imagination. I believe they focused on the right areas, where there are those procedural problems and procedural delays, and that they will indeed expedite that and eliminate the games on either side, for sure.

1100

Lawyers are lawyers. You're going to have people making arguments no matter what happens, but what you've done is to remove the biggest abuses that are confronting the parties right now. There's one issue, and I don't know if it's been said: The delay of any of these proceedings always hurts the union more than the employer, any certification. You delay that for six months, and the individuals who have signed up, who want that union, immediately have lost that credibility, that sense they had that there was a way to redress it; they say nothing's going to change. The more you can put that in a quicker forum, then the more you're going to have people's rights more properly determined.

**The Chair:** Thank you. We've got to move on.

**Mr Dalton McGuinty (Ottawa South):** It's good to see you again, David. I want to pursue this issue of the secret ballot. You must understand that most of us, and I think the average person on the street, have come to recognize that the hallmark of any association, institution, organization or nation which purports to be democratic is a secret ballot. We've grown up believing that, but when we raise this issue with representatives of labour they have told us time and time again that we are essentially naive and that we are unrealistic to expect that it would be possible to hold a secret ballot within the context of the organization of a union.

I want you to consider a couple of things. First of all, section 9.2 in Bill 40 would provide a pretty powerful sanction against employers using unfair means—coercing, intimidating, threatening employees—when there's an organization effort ongoing. It says essentially that if it could



be shown to the board that employees—which would mean to me all it would take would be two—have been intimidated, then snap, just like that, you've got your certification. Pretty powerful. I want you to consider that.

Under the existing legislation there was an additional requirement which we don't have now, that the representatives acting on behalf of the union would also have to show that there was an adequate level of support. That's been taken away.

One other thing too: Bill 80—you may be familiar with that—has been introduced and it provides that if a union wishes to proceed with disaffiliation, there has to be a secret ballot held. So the ministry has recognized the validity of a secret ballot within the context of unions, to some extent.

I'm wondering, why can't we take it a bit further? If we can't right now, what processes, what mechanisms do we have to put in place so that ultimately we can have a secret ballot?

Just one further thing: Yesterday Daryl Bean said he'd be prepared to consider having a secret ballot, that if we had 20% of the workforce prepared to support, that would trigger an automatic secret ballot.

**Mr Jewitt:** First of all, you already have secret ballot. It's nothing new. The only change you are making is to when you require a vote and when you don't. That's point one.

Point two may help with this whole notion of a secret ballot. I'll give you an example of another case I was just involved in: Decertification of a bargaining unit of 20, 20 people in a small town, and you have a ballot to determine whether they want to decertify. I don't know how you can ever determine if the employer in that organization, who's grown up with these employees, who may be in the bargaining unit, has not said something to one of them like, "If this goes our way, you get the promotion." You tell me how you're going to determine that in a proceeding when you've got 20 to 25 people. That's another context in which you have a real difficulty in saying that everything has to be determined by secret ballot, that a secret ballot is the grail that will resolve all our problems. It won't, because you're always going to have those kinds of situations.

To get to the point you raised about removing the requirement for support, the example I gave you about the shop steward being fired is under the old legislation, and there's still that issue. In all the things you talk about in terms of the automatic certification, the board's always had that power under former section 8. They exercise it and they've set out the rules as to when they do it. It's not necessarily easy: You have to demonstrate that the conduct is such that there's been a freeze or a chill on the campaign so that you can't freely campaign any more. So your secret ballot isn't going to do you any good then, because they've taken such action that there's no way of determining what the free wishes are.

The second criterion was adequate level of support. That was fixed by the board as being, I don't know, 20%, 15%; it wasn't a fixed number. I think removing that is a great idea, because in the last case I told you about, we had

60 or so people and, as I indicated, the employees started going crazy; half those people then said, bingo: "I want to resign. I don't want to be part of this any more." We were down to 30 out of 200. We may not have had, under the vague criteria the board had, that second criterion, but I give credit to the employer in that case. They realized there was no question they had overstepped the mark, and we settled the whole thing. That's what should happen. It doesn't always happen. If you remove that second criterion, it will happen. That's all I can say about those points.

**The Chair:** We want to say thank you to you, Mr Jewitt, for appearing on behalf of CUPE, Local 503, addressing these issues and making a valuable contribution to this process. The committee is grateful to you.

**Mr Jewitt:** Thank you very much, Mr Chairman and members of the committee.

#### FOSTER GRIEZIC

**The Chair:** The next participant is Foster Griezic from Carleton University. Please, sir, have a seat. We've got your written submissions. Please go ahead.

**Mr Foster Griezic:** I want to express my thanks to the committee for bringing the lovely weather from Toronto to Ottawa. My brief is extremely brief, and basically what I'd like to do is simply to talk about its contents in relation to Bill 40. I'm not going to read the brief, because I've been told I only have 15 minutes approximately.

I'd like to concentrate on a number of aspects of the bill, its implications, the attitude of business towards the bill and the situation in Quebec, spending considerable time on the situation in Quebec, Bills 45 and 17, simply because the business community has been told by the Conseil du patronat du Québec to fight the bill, yet in contradiction, I'll demonstrate quite clearly that by their own words they have admitted that the situation in Quebec in relation to the collective bargaining process has improved in the past decade. Then I want to talk about the actual attitude of the government in the context of replacement workers and the democratic process.

As I perceive it, it looks to me as if there might be collusion between the government and business in this Bill 40, the arrangements that have been made so far. Business is pressuring and has been pressuring the government to back off, and the government has in fact done that. That's unfortunate. The government has also contended that it is talking about justice and fairness for workers in relation to business. In fact, they've sidestepped the democracy and equality that they claim to be offering. The result confines workers to the semantics of equality without substance, and they become the continued victims of business and government rhetoric in the battle against business plutocracy, and the scales weigh solidly in favour of business still.

1110

Part of the problem may be because of business attitudes towards unions, and that I think is based on an ignorance of unions, how unions function and how in fact they are democratic. There is no question that there are flaws in the union organizations, but they are far more democratic

than our political parties or our government, and I think that should be well understood.

There may be, however, on the part of business a real fear of unionization, because during a depression—and that's what we're in—unions are in fact increasing numerically, and that poses a threat, I'd suggest, to the business community. They will fight and are fighting against Bill 40 and the right to unionize, the right to stop scab labour, and they are using their tried and true tactics of doom and gloom, of scare, virtually anything that will stop the government from in fact introducing the kind of legislation it should provide.

The paranoia—and it is paranoia—on the part of business has to be taken into account. They seem to be perfectly content to move into the 21st century with 18th-century ideological baggage, and that I think is unfortunate, because we are in a situation where, socioeconomically, Ontario and Canada have to be prepared to make changes to improve the situation, and these individuals seem to be more content to restrain the possibilities for expansion and growth. They use a lot of myths and half-truths. They take a cavalier outline towards unionization, and really too towards workers, be they in unions or outside of unions.

It has to be remembered that the economic malaise which confronts Ontario now is not the result of unions but in fact the interaction between the business community and the Conservative and Liberal governments that preceded the NDP. None the less, they do accuse unions and workers of making excessive demands for better wages and benefits, of making costs higher, being responsible for strike violence and so on, and suggest that by introducing Bill 40 it will simply make the situation worse. Yet that's far from the truth.

It's been documented quite clearly and publicly that the workers' wage increases, from 3% to 0%, pale in comparison with those of the CEOs and midmanagement, which range from 12% to 19%. One then has to ask the question, who in fact is responsible for the situation? As well—a bit of hyperbole here—to suggest that unions have some sort of role in the flourishing mergers and monopolies that have been created in the past decade simply borders on the ludicrous.

Labour costs, as the National Task Force on Cross-Border Shopping pointed out, have not added to the price of consumer product costs in Canada. Why do they make the accusation?

Business says that unions are too powerful and that the anti-scab legislation will simply worsen the situation. Russell Mills of the Southam Group suggests ominously that limiting access to replacement workers during a lock-out or strike could mark the end of newspapers. Seventeen years ago when the Montreal Star folded after a strike, a hue and cry arose from the business sector contending that the strike and the demands of the union were responsible for its demise. A royal commission headed by Senator Keith Davey, no friend of labour, found that mismanagement was in fact responsible. Each case, I think, has to be investigated and analysed on its merit.

Business wails that Bill 40 could translate into approximately 295,000 jobs lost. One could ask whether the moon is proverbially filled with green cheese. I think ordinary workers have to be sceptical about such statements. The study providing those figures was Ernst and Young, certainly not a disinterested player in this whole debate. The Ontario section of the Canadian Chamber of Commerce holds the proposals to make changes—not the actual changes but just the proposals, the theoretical aspect—as being a major contributing factor to the high unemployment rate. Where these individuals have been living in the past decade is absolutely unbelievable.

The ultra-right-wing More Jobs Coalition, a euphemism for union-busting while posturing for the right to work, claims the labour adjustments are being made for union leaders at the expense of employers and individuals. When union leaders failed to be individuals is a mystery, I would suggest.

The contention of its chairman, Dale Kerry, may not be so outlandish as it seems, since it parrots the biased poll conducted by Environics Research, another right-wing mouthpiece, which prefaces its poll with a leading question to help distort the results. Even the uninitiated are aware that such activity will in fact skew those results. All, however, seems to be fair in love, war and retaining the right to exploit.

Such contentions, however, repeat the myth that union members are like sheep. Union leaders are all too conscious that such is not the case. One has only to ask Bob White, Grace Hartman, Daryl Bean, Darrell Tingley, Jack Munro or Jean-Claude Parrot. In fact, it's difficult to lead these individuals, and there are instances, going back to the beginning, of workers protesting. There are just scores of instances where the ordinary worker has repudiated the leadership. It was remarked repeatedly that workers can think, that they are not like sheep and that they can make decisions. People have to work within that context. However, the accusations demonstrate, I would suggest, business attitudes towards workers, unionized or not, in a most glaring fashion.

The More Jobs Coalition is magnified by the Human Resources Professional Association, which suggests that workers' rights are to be sacrificed by Bill 40. The only rights that seem to be really in question here are the rights of those individuals who want to act as scabs and break unions.

Others have suggested that the bill will frighten away investment dollars. If available, that money was already moving out of the province prior to the NDP coming into power, and it's also well known that investment doesn't in fact provide jobs. It depends on the kind of investment that's made.

## 1120

The business community also questions whether picket line violence would be reduced. This isn't surprising, because business and government utilize the violence as a means of intervening in strikes. It provides them with a perfect excuse. The media hinge their presentation on strike violence on the picket line. Indeed, it's suggested that concentrating on this is good journalism. It ignores



that strikes are not gone into frivolously; they are tough decisions. A lot of people are affected, livelihoods. One only has to speak to strikers as they go through the process of a strike to understand that situation.

Workers are also held to be the initiators of strikes, yet it's demonstrated quite conclusively that the violence begins with the introduction of police, who are there to protect property and scab workers.

Business myopia rejects looking at Bills 45 and 17 in the province of Quebec, and I think that's unfortunate. The provinces are clearly different; none the less, useful comparisons can and should be made. The bills provide, in Quebec, greater ease in unionizing, a process to access injunctions for both unions and management, the former to end management's illegal use of replacement workers and the latter to limit picketing. Fines can be assessed.

Curious bedfellows in this opposition were the Conseil du patronat du Québec and the Confédération des syndicats nationaux, one of the radical unions in Quebec; I selected it to talk about specifically because it was a union that was opposed to the proposed changes. Ghislain Dufour, the president of the conseil, advised the business community to act against it, yet that conseil accepted the legislation, and in its Bulletin sur les relations du travail admitted in May 1990, "During the last decade...labour relations have improved in Quebec."

A further elaboration was made in its subsequent issue of February 1991. They've won the right to challenge the legislation, but they virtually have exhausted all the judicial arguments that can be presented in court. So it looks as if they are simply going to live with it. The CSN, while having reservations, believes it has worked effectively not just for workers but for management, the public and the government.

Another supporter is Richard Le Hir, Quebec vice-president of the Canadian Manufacturers' Association, who has admitted publicly that they could live and are living with the legislation.

There's no question that the number of strikes has declined quite substantially in the province of Quebec. The duration of strikes is generally shorter, the amount of violence on the picket lines has dropped, the cost of the strikes has diminished and fewer police are needed. Some Quebec unionists believe there's been a corresponding loss of identification of the police with the employer, government and property. As Madeleine Parent, a respected and long-time negotiator in both Ontario and Quebec comments, "It has at least civilized the process." Now, part of the reason may be because of the movement towards equality. I think that is an important element in this whole discussion.

The Ontario government seems to be gesturing towards the Quebec situation, but I repeat that it seems to be little more than a gesture. There are a number of shortfalls in that proposal.

Locked-out or striking workers don't have access to an injunction to stop management having others do the locked-out work, nor is there the threat of fines to keep business honest, and the move towards equality between

the two is minimized. Management, however, still has access to injunctions.

The location of picketing—it's unfortunate that Mr Sterling has left.

**Mr Sterling:** I'm here.

**Mr Griezic:** Good, because I'd suggest that in fact the situation in the malls is to the disadvantage of the unionists. For instance, you can have the place of employment within a mall. By this legislation, picketing at the exit and entrance of the mall is permitted, but it's not permitted where it should be permitted, at the actual door of that corporation, company or whatever where the people are on strike. Otherwise, how effective is the picketing going to be? Surely those locked out, and not just strikers, should have the right to demonstrate to the public at large who they are striking against. In this regard, Mr Sterling is right: Maybe the private individuals who are there might complain, but they shouldn't impinge upon the right of the strikers to express their position in this conflict.

There is another element too. There's no inclusion, no suggestion of secondary picketing, and yet it's been demonstrated that secondary picketing can speed up the conclusion of a lockout or a strike, as evidenced in the province of BC in the late 1970s and early 1980s. Should that not be the objective of the government and business, if they're serious, to get the workers back to the job and the wheels of production moving for everyone so that all will benefit?

Then we deal with the whole question of the terms "justice," "fair, balanced labour legislation," "democracy" and so on. Yet these concepts, which seem to be foreign to business mentality, fall short in practice in the bill. What sort of "justice" or "democracy" exists when workers have to have 60% support before a strike can be called? What happened to the concept of 50% plus one? Is that not democracy? What does the term "majority" mean? Or is it simply a perverted sense of democracy that applies solely to workers and unions?

Governments, as is well known, be they federal or provincial, are elected and govern with far less than 50% of the popular vote. They argue that improvements have been made in providing for a certification vote, as the percentage has been dropped from 45% to 40%. In Quebec it's 35%, something close to what governments get to attain power. The percentage remains a risk for workers, but why not attempt to provide greater justice and break away from the paternalism and fear practised by business against unionization?

The proposal to include a vote permitting replacement workers is a contradiction. On the one hand you've suggested that workers have the right to ensure that replacement workers don't go in to do their jobs. Then you're turning around and saying to them, "Well, out of the goodness of your heart, why don't you take a vote on the thing?" If you want to break the sympathy of the workers who are on strike, why not provide a mechanism to weaken the resolve of those workers? If you're going to give them the right, let them keep the right; don't make it a half-assed attempt to undermine their position.

1130

There are all sorts of interesting possibilities that are created in this regard. If you're going to ask that of the workers, why not apply the same thing to business? Have them in fact consult their investors. Take a vote. Make them vote 60% in favour of a lockout. That's only fair, or does fairness not matter?

Then you have the situation of letting management do the jobs of the locked-out or striking workers. Does that mean that management is only going to be paid the same as the workers who've been locked out, or does it mean when those workers come back they've already bargained for the same salaries management received for doing that work, or does in fact the concept of work for equal value not have any meaning? I say that tongue in cheek, clearly, but none the less it's something that has to be considered.

I listened to Mr Jewitt, and I was glad he raised the delay process, because any delays you put in are clearly in favour of business. The delays are there and they shouldn't be. Historically the situation favours business when you delay. Why continue that kind of inequality?

There is as well the whole question of the individuals—the women, the minorities—who are talked about. I must admit being pleased that Judith McCormack has been appointed to the chair, because she's a woman. There's nothing else in that legislation that indicates moving towards any sort of egalitarianism for including women or the minorities in positions on the board. You may be considering other legislation, but I suggest it should be in here as well—no question of it—and it's not.

I say that simply because it's been cited repeatedly, and everybody knows, how more and more women and minorities are moving into the workforce. They have to be accommodated; they haven't been, and I think they should.

There's a host of other points that could be raised, because basically what you've done is to exclude a lot of workers who should be included. Business doesn't realize that we're talking about a small percentage of the working population here. They ignore too the fact that less than 4% of the collective bargaining processes break down. That's really quite an impressive figure when you consider it.

In sum, Bill 40, with its limitations, is an attempt to civilize the collective bargaining process through the anti-scab section, but it doesn't go far enough at all. The Quebec situation has worked effectively for 14 years. The NDP government's legislation doesn't go as far as it should to make it equally effective and efficient and less costly, and I think the government should be prepared to consider that situation.

The balance of power still resides with big business. There's no question that the criticisms of business to date are really quite ludicrous, totally lacking in substance. I don't mean to be demeaning in any sense, but it just isn't there. They talk about globalization, and what they're really talking about is imperialism. They talk about competitiveness, and what they're really talking about is very cheap labour, child labour, in the Far East. When they talk about efficiency they're talking about environmentally irrelevant situations, because they're concerned about productivity at any cost.

Workers in and out of unions merit better protection and greater equality, and they really do have only unions to provide that. Hopefully the government will not back down, as it has done.

I apologize, I went over by seven minutes.

**The Chair:** Thank you, Professor. Ms Murdock, one minute please.

**Ms Sharon Murdock (Sudbury):** Thank you very much for coming today and speaking to us. Actually, just a quick comment, and then you can briefly tell me what you think. There's a story about Henry Ford when he did his first manufacturing line of cars. His business friends were very perturbed with him because he was paying his workers significantly more than the going rate of the day. They said: "What are you doing that for? You're making it really difficult for us, because now we're going to have to pay our workers the same." He said he wanted, first of all, to develop a very large group of skilled workers who would produce the cars and a large number of them so that people would be able to buy them. Second, he wanted his own people to have enough money to buy the car off the line. He was a very enlightened employer, for his day, in terms of his attitude about money.

**The Chair:** Thank you. Mr Daigeler.

**Mr Hans Daigeler (Nepean):** You make a statement on page 2 that business sees Bill 40 as a threat to its unabashed right to continue exploiting labour. I must say that I find this statement rather unqualified and unusual in its strength for an academic. I am wondering what evidence you have to say that business is currently exploiting labour in Ontario.

**Mr Griezic:** You can point to a number of examples of how business is exploiting labour in Canada, and in Ontario specifically. There are two areas specifically; hopefully, the Chairman won't cut me off. One area is the introduction of part-time labour. Part-time labour is a bonus to businesses because they basically don't have to provide benefits to their workers.

**Mr Daigeler:** A lot of people like part-time work.

**Mr Griezic:** That is such a fallacious argument. When you talk to people who are doing the job, they don't have one part-time job; they have many. My students right now have been out on the streets for weeks and months, some of them for years. These are qualified kids who have MA degrees and who virtually have to prostitute themselves—and I use that term specifically—to get contracts with the government. They can't go directly to the government; they have to go through a hiring agency which then takes part of the funds from their actual income. If you don't call that exploiting, I don't know what the term means, and I suggest you look in a dictionary to see. That's one example.

The second area is women, a lot of whom fall into that realm of being part-time workers, but it's not just them, because it includes many others as well. Why is it that the individuals who are hardest hit by this depression right now are the individuals in the age groupings from 18 to 40?

**Mr Sterling:** I have a comment. It's amazing how two people from the same institution can have such differing



views; you coming from the department of Canadian labour history, of course, and I coming as a graduate of the impractical school of engineering from Carleton. I just want to say that I take great offence at your attack on the integrity of business and its motives.

**Mr Griezic:** I take that, really, as a compliment.

**The Chair:** Professor Griezic, Canadian labour history and coordinator of labour studies at Carleton University, we thank you for your interest in this matter, for taking the time to prepare this submission and to share it with the committee. You've made an important contribution, and the committee is grateful to you.

**Mr Griezic:** Thank you very much. I hope the committee and the government will look closely at the Quebec situation to find out what in fact the situation is there and how it functions.

**The Chair:** Thank you, sir. Take care.

1140

#### NEPEAN CHAMBER OF COMMERCE

**The Chair:** Our next participant is the Nepean Chamber of Commerce, if those people would please come forward and have a seat in front of the microphones. Tell us your names, your titles, if any, and proceed with your submissions. You're going to have all the time allotted to you. Please try to save at least the second half of the 30 minutes for exchanges. As you have been able to note, they are oftentimes a very productive part of the process.

**Mr Buck Arnold:** Ladies and gentlemen, the Nepean Chamber of Commerce is very happy to be before you. My name is Buck Arnold. I'm the executive director of the chamber. I'm joined by Robert Allan, who is a director with our chamber and has worked with us on this Labour Relations Act for some time now. I will just go forward and read chapter and verse as distributed to you.

The Nepean Chamber of Commerce is gravely concerned that the government of Ontario is proceeding with the OLRA reforms substantially unchanged in areas of most concern to us at the white paper stage. Our concerns continue to be centred on the lack of economic investigation and the gross reduction in the personal rights and freedoms of both workers and employers in Ontario. It is our belief that the playing field is already tipped heavily in favour of unions under existing legislation and that the proposed reforms will propel this province into economic chaos as the most pro-union jurisdiction in North America.

When we addressed the Minister of Labour on this issue in January of this year, we expressed our concern that the government had not commissioned an independent economic impact study regarding the proposed amendments. We advised the minister of the results of a private, independent study conducted by Ernst and Young for the Council of Ontario Construction Associations. The results, then and now, are staggering and bear repeating.

An estimated 295,000 jobs will be lost in this province. This means that 295,000 workers will cease contributing tax dollars to the province and be placed on social assistance through UIC etc. That is bad business, and it's bad

news for the taxpaying public. Revenues are going down and expenses are going up.

The study also indicated that \$8.8 billion of investment would be lost over five years.

I'll depart from the script for just one second. The previous speaker alluded to the fact that typically you can't categorize all investment as jobs. I would virtually tend to disagree with that. I can't think of many kinds of investment that don't result in jobs.

Of the 251 firms surveyed, 85% indicated that their ability to compete would be weakened if they remained in an Ontario location, and 84% said they would reduce their own investment plans within the province over the next five years.

Adding insult to injury, the minister informed cabinet that implementation of the OLRA changes would cost \$8.3 million over three years—once again, bad business: revenues going down and expenses going up.

With all the sober financial advice the ministry was made privy to, we are at a loss to understand why we are before you today, faced with draft legislation which stubbornly ignores the economic realities put forward eight months earlier. No government, including this one, is elected to stop listening to the people who pay the freight, and it's not elected to stop listening to expert advice when it is made available to it. We have appeared before you once before on this subject and you have not listened. We are before you again. Hopefully, your minds are not closed and this time you are seriously listening.

Since the original round of "consultative hearings," the strength of the informed opposition to the draft legislation has grown immensely.

First, the leaders of both opposition parties have declared publicly that as a first order of business they will reverse this legislation when either of them becomes the next Premier of this province.

Second, in a particularly astute analysis of the draft legislation, the city of Nepean passed a resolution condemning the legislation as "unbalanced" and calling for the ministry to "introduce a balanced reform of the Labour Relations Act that will also recognize the concerns of the business community, not just the concerns of the labour community."

Third, the fire chief of the city of Nepean has written his concerns regarding the city's continued ability to provide emergency services in the face of "the ridiculous terms being recommended." He states again, "It is only a matter of time before the lack of ability of the local taxpayer to pay for services impacts on the quality of emergency lifesaving services within our local municipalities." We see this statement as being equally applicable to police, ambulance and emergency health care services.

Fourth, we have the unanimous support of our 400-plus members in opposing this legislation, and that support now extends well beyond the membership itself. We have received three dozen notifications of support for our position regarding Bill 40, and most interesting is the fact that the support comes from an extremely wide cross-section of the community. It is not totally confined to the private sector, and encompasses both large and small employers.

We have heard from individual operators and administrators with more than 1,000 employees. We have heard from the service sector, the hospitality industry, commercial retailers, engineering and accounting professionals, municipal and unionized federal civil servants, parts suppliers and manufacturers, financial, engineering and management consulting concerns, general contractors and realty holding firms, the board of education, transportation divisions and high-tech firms, retirees and even a church administrator, so the support for our position is rather widespread.

The opposition to Bill 40 is obviously spreading across the province; support from the smallest of companies to very large concerns, within the private sector and beyond into the public sector as well. In the face of all this broad-spectrum concern, why is the government persisting in its obstinate, uncompromising approach to this legislation?

The aberration most appalling to the Nepean Chamber of Commerce and to the diverse community of chamber support is the unparalleled wholesale assault on the rights and freedoms of every worker and every employer in Ontario.

The worker's basic right to belong to a union or not to belong and to financially support a union or not support it remains conspicuously absent.

The rights of workers to change their minds regarding unionization is totally eliminated with the cessation of the petition process. The rights of workers to continue to work through a work stoppage is totally eliminated, regardless of their own particular financial circumstances.

The rights of third-party property owners to deny entry and access to disruptive union organizers is totally eliminated. The rights of third-party property owners to deny entry and access to disruptive picketing strikers is totally eliminated.

The rights of employers to hire replacement workers during a work stoppage is totally eliminated, even though the striking employees are free to seek alternative employment during that period. The rights of employers to suspend or discharge an offending employee is effectively eliminated with the new reinstatement powers granted to the labour relations board.

The rights of employees to seek decertification of union bargaining rights is unfairly and unreasonably confined to the last two months of the collective agreement only.

The rights of replacement contractors to compete to service buildings is totally eliminated in that he or she is bound by the previous contractor's collective agreement, its bargaining process and any labour proceeding involving it.

The rights of third-party property owners to seek a court injunction restricting union activities is severely compromised because jurisdiction over many such activities is given to the labour relations board.

The right of our elected MPPs to have full and meaningful dialogue on Bill 40 was also totally eliminated when the government invoked closure during second reading and limited debate to just one day. The removal of the rights from workers, from employers and from innocent

third-party property owners in no way resembles democracy as we know it. We can only assume that this is some variety of New Democratic process. We do know, however, that it is blatantly wrong.

1150

**The Chair:** Thank you. Ms O'Neill or Mr Offer or Mr McGuinty or Mr Daigeler.

**Mr Daigeler:** Welcome, Buck. It's nice to see you down here. Daryl Bean, in his presentation yesterday to the committee, said that the opposition to Bill 40 is coming from what he termed "Ontario's corporate community." For the benefit of the committee and the members who are not from the Ottawa area, could you tell us a little about whether you consider the members of your chamber of commerce to be members of Ontario's corporate community, or could you tell us what kind of business the average member of your chamber operates and under what conditions he or she operates that business?

**Mr Arnold:** Yes. I would explain that our 400-plus membership consists of approximately 80% of companies with fewer than 10 employees, so one through nine. Just under 60% of those are companies with fewer than five employees, so one through four. This is not what I think the union sector would be pointing to as a large corporate situation.

Whether they're prepared to paint everybody with one brush or not, the problems being faced by the majority of our membership, being in the very small company mode, are the problems of the day, the last two years of economic downturn. They communicate to us their reaction to this reform as being absolutely devastating, not one which they will easily come out of. There's talk of downsizing pretty much at all levels, regardless of size of company. I've just heard that scattered around totally. Am I answering the question to your satisfaction?

**Mr Daigeler:** Yes, very much so, because my point yesterday to Mr Bean was that the opposition to this particular project is certainly not coming just from what one traditionally terms the big corporations, mostly national or international, but that the ordinary, hardworking small business person in our community is very concerned about the impact of this particular law. So I just want to indicate that there are a lot of small business people out there—and I think you mostly represent them—who have some very strong views on this matter and who, on the other hand, provide a lot of employment to a lot of people.

**Mr Arnold:** Absolutely. I would just add one point: The companies we're alluding to, these one-employee through five-employee types of situations, are generally the ones who have the least buffer to the last two years of economic downturn; they are somewhat on the ropes as it is and are very susceptible to unfavourable legislation such as this.

**Mrs Yvonne O'Neill (Ottawa-Rideau):** Mr Arnold, I have a follow-up to that. Could you tell us what concerns people like the general contractors or the board of education would have? Very briefly, because I know our critic wants to have a question with you as well.



**Mr Arnold:** I don't know how to answer you succinctly, but certainly any time a situation arises where a person who owns a company is uncertain of his ability to control the situation, he becomes compromised in the ability to make promises his company can fulfil when dealing with other people and indeed becomes less competitive for that very fact.

The board of education situation was in response to our advertising campaign. The administrator claimed that there were 1,000 employees involved under her particular jurisdiction and that, in her words, "It would be chaos."

I thought it was interesting to receive responses from the public sector. I really had not anticipated such. We did, as I said, get a letter from the fire chief as well, from that particular board of education and from several engineers in the federal public service who are indeed union members over their own protestations.

**Mr Offer:** Thank you for your presentation. I have one question, but certainly there is a statement that you made—as a member of the Liberal Party here, we have always indicated that we are going to be working very closely on this bill with a variety of concerned individuals, children's aid societies, school boards and local hydro services, which have very grave concerns with this legislation. We're working very closely with them in the area of amendment to the legislation to address their concerns. What our position will be following that will really be as a response to the government's listening to those very deep concerns by a variety of people, not just the business community, but others. So I wanted to get that clearly on the record.

My question to you, though, deals with the issue of the employees' rights to organize. This is a bill which I believe should—

**The Chair:** Ms Witmer, are you content to let Mr Offer have some of your time?

**Mrs Witmer:** No.

**The Chair:** Quickly, please, Mr Offer.

**Mr Offer:** We have two competing principles: the principle of free vote, as found in Bill 80, and that principle which is not found in Bill 40. What we have is clearly a democracy of convenience by the government. My question to you is your position on a free vote by workers as to whether they wish or wish not to be unionized.

**Mr Arnold:** I would like to comment on that. In the first place, the threshold for unionization, I believe, is being reduced to 40% from 45%. I have no problem with that. If it's 35%, I don't care, as long as there's an election process of voting, a democratic process, somewhere in there. But I wish it would be extended to all facets. This legislation lacks that democratic continuity. It's just not there.

**The Chair:** Ms Witmer.

**Mrs Witmer:** I'm going to let Mr Sterling go first.

**Mr Sterling:** I'm going to be rather brief. The Nepean Chamber of Commerce used to be associated with the Kanata one, which I represent, but has now decided that

Kanata is strong enough to go on its own. I appreciate your coming here and taking the time to put the brief together.

On a point of clarification, I think Mr Offer was saying, and he can correct me in my time if he so chooses, that in number one, where you say, "The leaders of both opposition parties have declared publicly that, as a first order of business, they will reverse this legislation when either of them becomes the next Premier of the province," Mike Harris, the Progressive Conservative government, has clearly said that. I do not believe Lyn McLeod has said that at this juncture.

**Mr Hayes:** She doesn't seem to be as optimistic.

**Mr Sterling:** So the Liberal Party has not said that, and you should understand that at this time. The Liberal members are agreeing with that.

**Mr Bob Huget (Sarnia):** You're on your own on this one, Norm.

**Mr Sterling:** Yes, that's right, we're leading.

With regard to the special nature of a lot of the businesses both in Nepean and Kanata, we have what I would describe as some of the best employers of Canada. We have Bell Northern, we have the Mitels, we have Gandalf. We have a whole host of businesses which export, in some cases, 80%, 85% or 90% of their product. They're really making money for Canada and Ontario. They are prime, prime businesses. How does this legislation affect them in terms of their competitiveness in the world market?

**Mr Arnold:** I'm going to let Bob take this.

**Mr Robert Allan:** If I may answer that, I think there are two things that you have to pay considerable attention to. First of all, is your competitiveness within Canada; ie, how competitive can these companies remain in the world environment, producing in Ontario? It's our submission that with this type of legislation and the inherent costs that are off-times produced through unionization, they will become less competitive, less able to compete in the world environment.

Tied in with that and possibly even more important is, what type of industry are we going to have in this province in the future? We've all seen, to our chagrin I think, over the past decade just how mobile investment is, just how mobile capital is. The likelihood of attracting new investment in this province, I believe, will be substantially reduced by this type of legislation being put into place.

1200

I'm just sort of going on with this. One of the arguments that was made by the previous speaker, and it's been made in a number of publications, is that this legislation will increase the likelihood of serious bargaining, with the potential for less picket line violence. This is only true if you accept the proposition that giving one of two parties to a potential fistfight a gun will have a beneficial effect. This legislation is equivalent in many respects to giving unions a gun that it puts to the head of employers.

The reaction of employers of course will vary, depending upon their own circumstances. If they can move elsewhere, it's likely that they will do so. If they can invest or expand their operations elsewhere, they will do so. I don't think that can be overemphasized when you're looking at

this type of legislation. You have to go beyond trying to say that there are difficulties between employers and employees and we'd like to address those. You have to go and look to say what will happen in the future if you try to deal with these specific problems now.

The other thing I would like to add is, when we're making comparisons with other provinces or other jurisdictions which have legislation that incorporates in whole or in part some of these changes, you have to make sure that those analogies or comparisons are valid. When you're looking at Quebec, for example, you're talking about a province which has in many respects a substantially different culture than we have in Ontario. Whether positive or negative is irrelevant; the fact is that it is different and that you must be careful when drawing analogies to a different culture.

Secondly, their economic base is substantially different from Ontario's. Ontario is a manufacturing province, and that makes it particularly susceptible to capital leaving the province. Quebec has been more of a resource-based province, which means employers simply can't leave the province, because they can't take the resource with them. If you want to make comparisons between provinces, you have to be really careful when you're making that analysis, because they're not always valid.

**Mrs Witmer:** After almost four weeks of hearings, I'm rather saddened and dismayed to see the polarization that has developed around the issue of Bill 40. We see that there are two sides and they're very far apart, and unfortunately, I think it's the process that the government has used to develop the outline of Bill 40 that has created the problem.

When I met with a representative of the British Columbia government last week, it was apparent that the process they're using is certainly one which is not creating the same type of conflict. There seems to be some attempt to bring all the players together in a tripartite process of consultation and arrive at consensus in making changes to the legislation. I would indicate to you, certainly the PC party, in making changes, when we talk about repealing Bill 40, that's the manner that we believe would be necessary to make changes. There needs to be consensus and there needs to be a bringing together of all the partners when you do make changes.

Having said that, we have heard repeatedly, and I get many calls and letters in my office, from individuals and companies who are looking at moving their operation to the United States or elsewhere, or downsizing their company. It's become obvious that we are losing jobs, and unfortunately, at this time we can't afford the loss of any more jobs. We're also not seeing any new investment coming into the province, because of fear. Are you aware of anyone within your chamber who has decided not to enlarge his facility or to move elsewhere or of investment not coming in?

**Mr Arnold:** The best I can respond to you is that I've had many people talk about downsizing or at best holding the line. I know of one company that talked of moving. I'm sure it would be of no consequence that it was about a

company with six or eight people and maybe therefore could be pooh-poohed, but it's still a company gone. That has not materialized. Nevertheless, that concern is deep in the mind of that business owner, and those jobs—the people may remain there, but they won't be part of his payroll.

**Mr Allan:** If I could add to that, I'm a lawyer in a small practice dealing particularly with small businesses, although some of them are somewhat larger. I can say—although of course I can't say who, for obvious reasons—that I have had a number of inquiries from specific businesses on how they can move all or part of their operations out of Ontario.

I've seen a number or at least a couple of possible businesses I would like to have seen in this province that have told me they will not be starting their business here; they will be moving south of the border. I can't say that it's exclusively because of this act, but this act and other acts like it have caused them to say: "We don't see a future here. We see a future elsewhere."

**Mr Huget:** I'll be very brief, and Mr Ward has a couple of questions.

**The Chair:** Are you suggesting that he's not going to be quite so brief?

**Mr Huget:** He may not be.

I will pick up on Ms Witmer's comments. She states that she's disappointed by the polarization that's become obvious. I think that's a fair comment. Everyone is disappointed by it, and I'm certainly not surprised by it.

In terms of your presentation, you refer in very strong terms specifically to the government not listening to you, and I think you should be aware, if you're not aware, that there were 22 changes made in the legislation prior to consultation with business and 10 of them were in significant, major areas of the legislation, as a result of discussions with all groups, including business groups.

My problem, sir, is one with process. Yesterday we heard from the Gloucester Chamber of Commerce. In their presentation they have about 16, I believe, inaccurate statements in their position in terms of parts of the bill they suggest are either included and they are not, or parts of the bill that were altered and they suggest were not. There were changes made and Gloucester's position was there were no changes made.

My problem with the process, sir, is not pointed at you or your chamber. It's just that I would have hoped that in taking a very strong position on legislation that is indeed important to the members you represent, there would have been every effort paid to accuracy when you're trying to get opinion from your 400 members, and indeed the 65,000 members of the chamber of commerce in Ontario.

The second point I would like to make, and I'll defer to Mr Ward, is that if in this country and in this province the method of the day is to move to the lowest common denominator in terms of business costs, whether that's labour costs in particular, if that's the route everyone is going to go, I would suggest to you that's not going to be a successful solution to the province in terms of its workers or its



businesses. I don't think to move to the lowest common denominator is going to be in anyone's best interests.

But if one suggests that business is going to move to other countries south of the border, perhaps we should move to, in some cases, the lowest common denominator. In Mexico, sir, they have anti-replacement worker legislation, and perhaps that's one of the lowest common denominators we could move to.

I'll defer to Mr Ward.

**The Chair:** Do you people want to respond to that?

**Mr Arnold:** Perhaps I would, particularly with the 22 significant changes. Actually, I have a bulletin here from Mike Harris.

**Mr Huget:** Mr Harris didn't draft the bill.

**Mr Arnold:** I tend to agree with his comment as opposed to what's put forward. We don't see anything substantially different. Our major objections—you can talk around us technically, "We did this, we massaged that." The thrust of that bill hasn't changed one bit.

**Mr Huget:** So in short you're opposed to the bill, period.

**Mr Arnold:** I'm sorry?

Interjection.

1210

**Mr Brad Ward (Brantford):** When you mentioned investment, I read an article in the *Ottawa Citizen*, a fine newspaper in its own right. It centred around retail and what's happening in the retail sector. Out of that article I've managed to gather some facts that I'd like to present to you.

There are a number of chains: Business Depot, which I believe opens tomorrow on Merivale Road, plans to open 36 stores over the next three years in Ontario, including a second one in Ottawa; Winners is opening tomorrow and it plans 15 more stores in Ontario, one in the Ottawa area; Talbots plans to open next spring, and Price Club in fact is opening in your community in the spring. Investment, confidence.

When you look at the manufacturing sector, we had a presentation yesterday by the Canadian director of operations for Gates Canada, who confirmed in conversation with me that they have invested \$4 million in plants in my community of Brantford to develop a world market for the products that are being produced in those plants. They have such confidence in their workforce and the skill level of the Ontario workers that they are investing an additional \$8 million in those plants over the next few years to further develop the capabilities and productivity of the Gates Canada operations in Brantford. Confidence.

This flies in the face of the doom and gloom that is being presented by some, not all, critics of Bill 40. I can refer to other investment strategies.

**The Chair:** But you want these people to respond to you, don't you, Mr Ward?

**Mr Ward:** Yes, and that's why I'm going to stop and not mention those other investments.

**Mr Allan:** I think the short answer is simply that there will always be exceptions to the rule. No matter what you

put in place, people will do things differently. When people look at Ontario, they do look at more than just simply the labour legislation; they look at things such as our skill sets, abilities, particular plants etc.

All we're saying is that the thrust of this will be a factor that will be taken into consideration not to invest and not to expand. It may not be the only factor, and that is the reason why you will have people who will do some expansion. However, from our own experience and from the people we deal with, we find the general thrust is that this has a very negative effect and that, "Unless there's a real good reason for staying here or investing, we're not going to do it."

With respect to the comments on the retail sector, that's very similar to what I mentioned about Quebec and being a resource sector. Unless everybody who lives in Ontario moves out of the province, we will have to buy things in the province; stores will still have to be in the province. As long as all stores are subject to the same types of employment legislation and as long as they're all being put under the same constraints, they're all going to have to live with it. They can't move out, and they can't move across the border and open up a store because they won't attract the people in Ottawa, cross-border shopping excluded, because people just can't go down to Toronto to pick up a bag of milk every time. So that type of thing will not change.

The industries that will be hit the most are the manufacturing industries. You alluded to Gates having a worldwide mandate in Brantford. That's exactly the type of industry we want to attract in this province, but having a worldwide mandate means they could locate that plant anywhere. They're only going to do it in Ontario if they've got a really good reason, because they've got a lot of reasons why they won't be investing in this province.

**Mr Ward:** Do I have more time?

**The Chair:** No. I thought you were going to try to sneak something in, Mr Ward. Failing that, we'll move to Mr Bisson.

**Mr Bisson:** Just to put this in a bit of perspective, all members who are sitting on this committee, be it opposition members or government members, come to these positions wanting to represent their communities, and we do that genuinely from whatever perspective we're at.

The problem I have was touched on a little bit by Mr Huget, but let me put it in a bit of a different perspective. I want you to answer me a question.

I, like most other members, both opposition and government members, was strongly lobbied on a couple of occasions last winter on the changes to the Ontario Labour Relations Act. The position I took was that I said basically what I would do if I was contacted, and this is what I told my staff, "If we get a letter on the OLRA that people are against it, if I get a phone call on it where people are against it, I want you to flag that to me and I want to call them back, because I really want to put my finger on what the problem is." If there's really something out there that's so blatantly unfair, I want to be aware of it because I have

to represent a number of people in my community, not all of whom are pro-union.

I would say that in about 90% of cases where I've either phoned those people, small businesses, large companies employing some 1,000 people, or I've gone and visited with them on this particular issue, what comes up time and time again is, "I really don't understand this bill but this is what my association is telling me to say."

That disturbs me a bit. I understand, I was a lobbyist from the other side, I did the same things and I understand the responsibility of the Canadian Federation of Independent Business and the chamber. They're there to advocate for their members. I've got no problem with that, but when I sat down with large employers, some of which have already unionized, I'd say, "How is this legislation going to affect you?" "It really isn't, because I'm already organized. I don't use replacement workers." When I talked to small business people, the comment that I was always getting was, "This is what my association is telling me to tell you."

In a number of cases, some small business people—I wouldn't say lots, but I've had about four or five of them in my riding—got mad and sent me a copy of what they got from the Canadian Federation of Independent Business that mouthed the words we hear at these presentations.

I just want you to respond to that because if we can sit down and have an open discussion and say X, Y and Z, we could work from that basis, but when the oppression that—

**The Chair:** Thank you. Perhaps these people can respond.

**Mr Arnold:** I would like to say that the facts we talk from are facts. The Ernst and Young study is factual.

**Mr Bisson:** But your members don't agree.

**The Chair:** Go ahead, sir.

**Mrs O'Neill:** Who said that?

**Mr Arnold:** The fact is, we have been critical of the government—

**Mr Sterling:** Who said that?

**Mr Arnold:** I'll just talk over. Is that what you're suggesting I do?

**The Chair:** Yes, sir, because the mike will pick you up.

**Mr Arnold:** Fine, I'll do that.

**The Chair:** Go ahead, sir.

**Mr Arnold:** It is imperative that a decision of this scope and magnitude be balanced with the proper academic financial information as to the impact on this province. That has not been done other than by the private sector. If the ministry has any difficulty with those figures, it's up to the ministry to commission its own study, and we have welcomed that, we have asked for it. It's not forthcoming. We therefore have to take the opinion that the Ernst and Young study bears fruit, that it's real, and there's nobody denying that.

With all due respect, if you have three or four small business people in your particular riding who are hearing from us and are confused, believe me, they have every right in the world to be confused. We at the chamber level are confused. The legislation is spaghetti, it's very much a tangled mess.

I refer you all to read—at some point you'll have the opportunity, if you have not—the city of Nepean's submission. The analysis done by the people at city hall, Nepean, was exceptionally well done. They point to the failings. We need hard information.

**The Chair:** Thank you. I want to thank both of you gentlemen for appearing here today on behalf of the Nepean Chamber of Commerce. You've made a valuable contribution to the process of the committee and the committee is grateful to you. We trust that you'll be keeping in touch.

**Mr Arnold:** Thank you very much.

**The Chair:** Very briefly, I was delivered a letter today, dated Tuesday, August 25, 1992. It reads:

"I do not have time to sit here for a day and a half. I am trying to start a small business. I have tried three times to get a copy of Bill 40 and Bill 79 at the Ontario information centre. On Friday last, I asked how many copies they order at a time. The answer was 25. I really think you, the government, do not want we, the public, to know. These bills and others are going to scare investment in business away, possibly long after your short term in office. I am mad as hell. Respectfully yours, John L. Jamieson, JJJ Construction," and then there's the little corporate seal on the bottom.

I am asking the clerk to please ensure that Mr Jamieson gets copies of Bill 40 and Bill 79 promptly. I'm not about to confirm or refute the allegation of Mr Jamieson that the Ontario information centre was unable or unwilling to provide him with those, but it wouldn't surprise me.

Any other matters? Fine. We're recessed until 1:30.

The committee recessed at 1220.



## AFTERNOON SITTING

The committee resumed at 1332.

SOCIAL PLANNING COUNCIL OF  
OTTAWA-CARLETON

**The Chair:** Good afternoon. It's 1:30. Our first participant is the Social Planning Council of Ottawa-Carleton. Are those people here? Sure they are. Will they please be seated in front of a mike, tell us your names, your status or title with the planning council, and go ahead. I remind people that there's coffee on the side, and that there's French-language translation taking place, with little receivers and earphones available on your right.

**Mr Jim Zamprelli:** I'm here representing the Social Planning Council of Ottawa-Carleton. I'm Jim Zamprelli, the executive director. We are presenting a copy of our brief to you in English. We are a bilingual organization and we will have a French version in the very near future which we will submit as well.

The SPC of Ottawa-Carleton, founded in 1928—so we've been around for some 60 years—is a private, non-profit organization directed by a voluntary board which is elected from our membership of individuals in social and human service agencies in our region, all of whom share our mission and values. The council receives the greater portion of its funding from the United Way of Ottawa-Carleton and the regional government, with funding as well from the province and other levels of government for specific projects and activities.

We play a coordinating role in the development of social service in our region. We conduct research into questions relevant to social needs and social services and, perhaps more important, we inform our membership and the public at large on issues affecting their social and economic well-being. We advocate for improvements in the quality of social services and for public policy which contributes to the quality of life in our communities. That's really the reason we are here today, to look at changes in policies which we feel affect the social and economic wellbeing of our region, as well as workers in our province.

We welcome the opportunity to appear before you today to respond to Bill 40. Our interest in this bill stems from our concerns for those who are the working poor, those unemployed or not yet employed, and those members of designated groups or equity groups, such as ethnic and visible minorities, who may be discriminated against or have a higher propensity, let's say, to be discriminated against in employment and in the workplace. All these groups are the key constituencies for whom we do our research, with whom we do our research and with whom we advocate for improvements in our social and economic environment.

While we recognize that these proposed amendments will not solve all the problems faced by these groups of workers or potential workers, it is our belief that collective bargaining is one way for employees to improve their incomes, as evidenced by the 15% to 25% wage gap between unionized and unorganized workers. In addition

to possible gains in wages and working conditions, unionized workers have a grievance procedure, thus ensuring a greater measure of fairness in the workplace.

When we look at our realities of today for the worker and what's happening in the workplace, it must be remembered that current labour laws were, by and large, designed for the large industrial establishments of the past. Today most of these large workplaces in both the private and public sectors are covered by collective agreements. However, many workers are now employed in small workplaces and therefore could be said to be more vulnerable to difficulties in exercising their legal right to organize and bargain collectively with their employers. They face a greater risk of employer interference with these rights than did workers in larger establishments.

While more of the newly created jobs are in small workplaces, these small businesses are often branches of powerful multinational companies operating in many countries with stronger technological change and plant closure legislation than in this jurisdiction.

Communities suffer when wages are low and workers cannot buy houses, shop in stores or afford to use other community business services. In fact, many members of the working poor also need some measure of social assistance from their communities in order to support their families. This is not because they don't work hard enough but because, simply, they don't earn enough.

Laws governing industrial relations in Ontario have not been revised in a major way for many years, and we therefore welcome this thrust by the government. We are particularly encouraged to see Bill 40's emphasis on the encouragement of labour-management cooperation, as we believe the more cooperation between the two in the workplace, the more productive the enterprise will be and therefore the larger the pie to be shared between those who help produce it.

We certainly as well compliment the government in its attempt to enact these amendments to reduce conflict and confrontation in the workplace.

We expect to be submitting a more detailed analysis of the specific amendments at a later date through the work of our volunteers. I must also relate that this brief is the work of our volunteers, and when we get to a more detailed analysis, that as well will involve the vast number of volunteers we have associated with the council.

In terms of what we're presenting today, we would particularly like to make a number of comments relative to amendments we feel are of interest to us and of interest to our constituencies.

The issue of inclusion of domestic and professional workers: While we recognize this will not solve all the problems of domestic workers, it would give them the opportunity to organize if they so wish. Professional workers should also be free to unionize and bargain collectively. Therefore, we certainly support that initiative.

Allowing for the consolidation of bargaining units and combining of full- and part-time units: Because many of

the new jobs are in fact part-time, it would be important to have them in the same bargaining units, as is the case in many other jurisdictions in Canada. We see that particular initiative as supportive and positive in recognizing the commonality of interests we feel does exist, whether one is a part-time worker or one is a full-time worker, especially since many of the designated equity groups tend to be part-time workers.

Disciplinary action during an organizing campaign: When a group of employees is trying to form a union, there are often charges that an employee has been disciplined or fired for union activity. The system of redress before the Ontario Labour Relations Board often took a long time, thus contributing to the intimidation and discouragement of employees in exercising their right to organize in the first place. The amendments proposed would expedite the hearing process by setting time limits on the board and the parties to the dispute. We therefore see this as a very positive initiative.

The certification process: Once a group of employees has decided it wants to belong to a union of its choice, it would be unfair to have barriers to the process. The signing of the membership card is the recognized form of that decision, and therefore we support the removal of the requirement that a \$1 fee be paid in addition.

Once the application for certification has been made, Ontario remains the only jurisdiction in Canada that allows employees to file a petition to oppose the application. Historically, these applications were usually rejected by the OLRB, but only after long and often costly proceedings before the board. These types of petitions were usually found to have been influenced by the employer or his/her representative. We are glad therefore to see this provision will be eliminated.

### 1340

Employees who change their minds before the application for certification is made will still have the right to resign from the union or sign a petition.

First-agreement arbitration: Once a union is certified as the bargaining agent, it's often been difficult to reach the first agreement which would establish the ongoing relationship in the workplace. Several jurisdictions, including Ontario, provided for the imposition of a first contract where the parties were unable to reach agreements and one or the other party was proven before the OLRB to have resorted to unreasonable bargaining tactics, undue delays or other factors.

In Manitoba, for example, the first-contract imposition does not depend on proving either party acted badly or in bad faith, but only that 30 days have elapsed and the parties are unlikely to reach an agreement without the aid of a third party or an arbitrator. Critics of this provision were fearful that the parties would not bargain but would in effect wait for the imposition. We feel this will not be the case. In fact, this initiative would act as a spur to the parties to reach an agreement themselves, which is the best way for parties to develop a sense of ownership in the establishment of their newly negotiated relationship.

Use of replacement workers during a strike or lockout is limited to non-bargaining-unit employees of the em-

ployer. Historically, some of the bitterest strikes or lockouts have taken place when the employer attempted to have others do the work of the struck or locked-out employees. Until relatively recently, employers could hire professional strikebreakers. This option was forbidden by most jurisdictions in the 1970s. Later in the 1970s Quebec became the first jurisdiction to forbid the hiring of replacement workers because of the violence that had erupted in too many of its industrial conflicts when workers saw their jobs being taken away by so-called scabs while they were on a legal strike.

It is important to realize that in 1991, 96% of collective agreements, covering 85% of all employees, were in effect settled peacefully, ie, without work stoppage, and in those few cases where a peaceful settlement was not the case, it is important that the community does not become polarized and deeply divided and antagonistic where replacement workers are allowed. We commend the government for its reasonable proposals on this very sensitive issue.

The issue of essential services: In making exceptions to the above, in many cases for essential services, it is hoped that unions and employers will work out essential services agreements between themselves, as has been done, for instance, in the Manitoba health care system. This negotiation on essential services agreements should be done as a pre-emptive move long before there is any possibility of a work stoppage so that it is done at a time when other important economic items are not at issue.

Contracting: In the contracted-in work, when a contract is tendered with a new service provider, there has been little protection for existing employees. This cycle can continue year after year.

Because of the fluctuating nature of employment in the contract-services sector, we support the combined set of amendments to the OLRA and the Employment Standards Act which make provisions protecting existing collective agreements, bargaining rights, wages and benefits with the new employer.

Conclusion: We feel that labour legislation which dictates what's happening in labour relations is one tool in a free, democratic society to enable working people to share in the goods and services they help in a great way to produce. We believe these proposed reforms will go a considerable way to assisting employees who freely choose to exercise their right to take out membership in a union and therefore enter a collective bargaining relationship with their employer.

We believe the measures will also particularly assist members of designated equity groups who often are the most vulnerable in the workplace and in our society. In fact, the social planning council is working on a review of the proposed employment equity legislation, Bill 79, which would further provide equal opportunity to these affected or designated groups. We would hope, therefore, that amendments to the OLRA and Bill 79 on employment equity will complement each other in this regard.

**The Chair:** Five minutes per caucus, please.



**Mr Sterling:** Thank you very much for coming, and I congratulate your volunteers who might have put this together.

I'm very much concerned as well about the working poor and the people who are at the bottom of the totem-pole, and would like to see us endeavour to help all those people. But let me throw three facts at you: Number one is that 3% of the population of Ontario makes \$85,000 or more, so there aren't a lot of rich people around. Corporate profits are at an all-time low. They're probably at somewhere around 2%, 3% or 4%, whereas in the early 1960s they were double that. Our governments are broke; they're operating at tremendous deficits.

There's a total pie of money here. There's a total amount of money for the workers of Ontario to receive. As we strengthen the hand of those who already have, we take from the weaker. That has always been my opinion. In other words, there's a total pie here. Those receiving \$85,000 or more are a small slice of that. There are profits which are necessary in order to attract investment, and they're already too low in order to attract that investment. Our governments are broke. They're spending a lot more than they're collecting, so there isn't any more money there. Union wages etc are, if you want to call them, middle class. I call them high class now because I don't think there is a high class; everybody is middle class. If you strengthen the hand of those who are earning, let's say, in the \$40,000, \$50,000 or \$60,000 range, who do you think is going to take the brunt of the increase the other members of our society get? That's my concern with regard to strengthening the hands of unions in this province.

**Mr Zamprelli:** Our position would be that it's strengthening the hands of workers; it's not necessarily those who have. You say, "Strengthening the hands who already have." Well, our opinion is that there are many workers in the workplace who don't have and who need this kind of increased protection in order to get their fair share.

**Mr Sterling:** Where does the fair share come from? Somebody has to lose in this equation. When you say this person is going to get more, who's going to get less?

**Mr Zamprelli:** I guess that's based on the assumption you're saying, with unionized and collective agreements, that it's a question of getting more. Certainly other issues that are part of collective agreements that are not necessarily in terms of wages but in terms of protection in the workplace and other benefit-type issues, go beyond strict remuneration.

**Mr Sterling:** Sure, there are other issues, but the principal issue and principal concern that you should have and I have are to raise the standard of living for those who are on the lowest end of the ladder.

**Mr Zamprelli:** Exactly. That's why we're saying that when we look at these amendments, we see them specifically affecting those who are more vulnerable and who therefore would have the greatest tendency not to, as you say, already have, and therefore need this intervention in order to protect their rights and earn a decent standard of living.

**The Chair:** We've got to move on.

1350

**Ms Murdock:** Thank you for taking the time out of your day to come.

Just one quick point and then a question. On the essential services, page 4 of your presentation states, "This negotiation on essential services agreements should be done long before there is any possibility of a work stoppage." I'm sure you're aware that under subsection 73.2(15), that's exactly the intent of the legislation, and that there is no procedure or time frame set in there specifically so it doesn't have to be done when tempers are frayed and that kind of thing.

The question I want to go to is on page 3, in regard to the petitions, where we are the only jurisdiction in Canada that, even with these amendments, will still allow them up to the date of application. Would you want to see petitions completely eliminated? If so, why?

**Mr Zamprelli:** I wish I had some of my volunteers right here to answer that question. In all honesty, I would prefer to take that question back under advisement. When we look at doing a more intensive brief, we can treat that issue.

**Ms Murdock:** And stop taking notes, yes. Okay, thank you very much.

**The Chair:** Any other members? Mr Offer, go ahead. You've a whole lot of time.

**Mr Offer:** I'd like to thank you very much for your presentation. I think it touches on a variety of areas that we in the committee have been concerned with, certainly with respect to this bill. I guess there's no one on this committee who is not well aware of the important work that your council has done in this region for many years.

I have a question, and I must say it is a concern to me. It deals with the domestics. Yes, Bill 40 does allow domestics; it takes away the exclusion. But the vast majority, almost all, are hired singly by one employer. This bill does not reduce the bargaining unit from what it is now—two—to one. It is clear in my mind that this bill does nothing at all for the domestic workers in this province in any way, shape or form.

Secondly, we heard a very important presentation from the home workers in Toronto. In fairness, though they came in support of the legislation it was clear that the legislation really didn't do anything for them because of the fact that there was a need for broader-based bargaining, which is not permitted in the legislation. So we are left with the clear position, from those involved in the area, that Bill 40 does not help domestic workers in this province; Bill 40 does not help the home workers in this province. I'd like to get your comment on that.

Before doing so, I'd also like to ask a question about the part-time workers, because I truly do very much agree with your conclusion of the free, democratic society. Bill 40, I believe, takes away rights of part-time workers because a part-time working unit can be taken over by a full-time working unit even if no part-time worker wishes that to happen. I'm wondering if you share that concern.

Certainly we've been expressing that concern from day one as a very serious omission from this legislation.

**Mr Zamprelli:** That's what I thought. In terms of the part-time and full-time, if there wasn't full agreement in both sections, they could be treated separately.

**Mr Offer:** No. In fact there does not have to be a majority of part-time workers and a majority of full-time workers necessary before it's consolidated. If there are enough full-time workers who want to be consolidated with part-time workers, that will happen under this legislation, even if the part-time workers don't want it. I think it's a serious difficulty with the legislation, and I know you've dealt with these types of issues for many years.

**Mr Zamprelli:** In terms of part-time, again, is there is commonality of interest? We would agree that, more times than not, there is a commonality of interest and making the dichotomy is a false one, especially when we see growth in part-time work where part-time work is gaining more and more momentum in terms of being a very pervasive workplace option—at no choice to some; people have to take part-time work, and therefore we feel combining part-time and full-time would give greater strength to the collective voice.

**Mr Offer:** I understand. I guess my question is, though there will be members on this committee that will debate this and everything, shouldn't that decision, in your opinion, rest with the part-time workers?

**Mr Zamprelli:** I'd have to look back again at the material. I thought there was some provision whereby they wouldn't be swept in, but if that is the case, that's another item I think our volunteers should look at and reconsider in more depth.

**Mrs O'Neill:** Please do that.

**Mr Offer:** I don't know if anybody else has any questions. I'd certainly like to thank you for those responses, because they are concerns which have gravely bothered us from day one as to the serious omissions in Bill 40.

**The Chair:** Mr Daigeler, briefly, please.

**Mr Daigeler:** Thank you for your presentation. The social planning council, and I think it was referred to already earlier, usually does some very good studies and what I consider relatively balanced. I think you obviously have a certain bias. Nevertheless, generally the reports you send to us on a regular basis I think are very much appreciated.

With this presentation, though, I do see that you are very clearly looking only at one side of the story. I guess you feel as a social planning council you have to take the position to do everything you can in the way you perceive it to support what you consider, for lack of a better term, the underprivileged.

I don't see any effort—and I thought perhaps from a research body, which you are, there would be at least a little bit of effort—to look at the side that we hear, at least sort of half of the presentations we've had over the last two days, from the business community and from the business community of the Ottawa-Carleton area. I would say that for you as a research council, there should be some effort as well to see what their concerns are and how they

possibly could be harmonized with the concern you express in here. I'm just wondering. From your mandate as a research council, how do you react to this criticism?

**Mr Zamprelli:** As I said, certainly our key constituents and our members are either disadvantaged people or those who advocate and are representing disadvantaged people. Therefore, our major concern would be in that area.

Certainly historically the council has had members from the business community as part of its board of directors. Of late, for a variety of reasons that hasn't been the case, but we as a community would welcome more participation by the business community, board of trade, etc. We've had some board of trade members in the past, for instance.

In order for us to develop as balanced a position as possible—I agree, we do as a goal want to develop balanced positions—in this case, we feel that we had to say what we felt had to be said vis-à-vis those who are more vulnerable in the workplace, and that's who we felt our major concern was in terms of making this brief.

**The Chair:** Mr Sterling, Ms Murdock left some of her time. I've had that surplus of time shared equally between you and the Liberals.

**Mr Sterling:** That's fine. I don't have any more questions.

**The Chair:** I want to thank you, sir, for appearing on behalf of the Social Planning Council of Ottawa-Carleton. Mr Zamprelli, you've made a significant contribution to this process and the committee's grateful to you.

**Mr Zamprelli:** Thank you very much.

1400

#### OTTAWA CONSTRUCTION ASSOCIATION OTTAWA-CARLETON HOME BUILDERS' ASSOCIATION

**The Chair:** The next participant is the Ottawa Construction Association. Would the people representing that association please come forward, have a seat, tell us your names, titles, and proceed with your submissions. I want to remind people that there is coffee over here on the side so that persons visiting us here can feel comfortable and at home. I remind people as well that there is French-language translation service. The receivers and earphones are available at the desk to your right and the excellent translation staff are eager to assist. Go ahead, please.

**Mr Stephen Sulpher:** Thank you, Mr Chairman. My name is Steve Sulpher. I'm the executive director of the Ottawa Construction Association. With me are Dan Greco, who is the director of labour relations for the association, and Robert Sanscartier, who is the incoming president of the Ottawa-Carleton Home Builders' Association. Our associations represent approximately 1,400 construction and construction-related companies in the Ottawa region. Our membership within the OCA is divided about 50-50 union and non-unionized contractors. In the home builders, it runs roughly 20% union, 80% non-union.

We would like to thank the committee for the opportunity to make this presentation. We have participated in the hearings held earlier this year and are here today because



our members are deeply concerned about the effects Bill 40 will have on the economy of the province and their businesses.

When we were before the previous committee on this issue, we raised three prime reasons for our opposition to this bill: There is no demonstrated need for reform at this time; reform, as proposed, will have a negative impact on the province, and there has been no true consultative process.

Our position remains unchanged; however, today we will focus our attention on the impact of the legislation on the province's economy and on the consultative process.

You have no doubt heard many comments in your travels regarding the disastrous state of the construction industry in this province during the past couple of years. The Ottawa region is no different from other parts of the province. The Ottawa construction industry has gone from a high in 1988 of \$1.2 billion in volume to \$927 million in 1991, a 25% decrease in investment during the past three years. This drop in activity has naturally brought with it high unemployment rates for the local construction trades. Most trades in our region are currently experiencing unemployment in the 30% to 40% range.

All of the information available indicates that the passing of this bill will only have a worsening effect on investment in the province and, as a result, increased job loss in our industry. We are aware that the government and labour have criticized the results of these studies as being biased in their presentation and results. It is claimed that all that these studies have accomplished is to distort the impact of the proposed legislation and scare investors away from the province.

From the beginning of the procedures to introduce this bill, the construction industry has been concerned about its impact on the investment opportunities in the province. This concern prompted these studies to be conducted in order to indicate to the government and the public what impact these proposals might have on the province. If anyone is concerned about the method or results of these studies, it would be a logical step for them to conduct their own studies to provide evidence to the contrary. Without any other source of information, we must accept the data at hand as being at least an indication of what may happen.

There is a saying that you should only believe half of what you hear. Even if we were to discount the results of the latest Ernst and Young study by 50%, we can still expect job losses in the 150,000 range if this legislation is introduced in its current form.

The government and labour have stated that the economic impact of this legislation will be negligible. We are only asking that you prove it before you proceed. Provide us with some tangible evidence that what you are telling us has some basis in fact and has been provided to you by an independent source.

The object of any union is pretty basic. It is to improve the working conditions and protect the jobs of its membership. The protection of jobs is not limited to current employment, but includes creating conditions which will increase employment opportunities. The role of the government is to create a climate which will encourage investment, thereby ensuring improved employment opportunity.

Any union or government which would support any program that has studies demonstrating a negative impact on job creation has failed its constituents miserably.

If the current studies are not acceptable, we urge this committee to conduct research of its own on the impact of this legislation. Any recommendation you make to the minister must be based on the facts at hand. If you are concerned about any of those facts, it is imperative that you seek out any evidence to the contrary or which may confirm the statements made by any group before you. It is our feeling that it is for this reason that the government does not want to conduct its own studies. It knows, and is afraid, that the information provided by the Council of Ontario Construction Associations is true. They cannot with any conscience, and should not, move this legislation forward in its present form.

At an earlier hearing, with the Ontario Sewer and Water-main Contractors Association, Mr Klopp stated that he always goes by what someone is trying to sell him, and then he goes with facts and just the facts, never on perception only. Well, we have placed our facts on the table. To date, government and labour have been relating their perceptions of what impact this bill will have on investment. Mr Klopp, we applaud your approach to decision-making and encourage you to get all the facts.

When introducing this bill, the minister claimed this reform is necessary to enhance cooperation between, and provide a level playing field for, labour and management. If you review the process to date, it should be evident that the bill has already failed in its intentions. The only thing this bill has accomplished to date is to completely divide labour and management. I am sure you have determined that much so far in your hearings. If the bill proceeds, it will only continue to further divide labour and management. The reason the bill has failed to date is because the process used in the introduction of this reform has been terribly flawed.

At our last meeting on this issue, we suggested that the government consider the approach used by the construction industry for the past many years when seeking amendments to the Labour Relations Act; that is, a tripartite group which works together to formulate a package of amendments acceptable to both labour and management. Once this package is resolved, the introduction and passage of the legislation is quick and supported by all parties. It is a win-win-win situation. This process has worked many times in the past for the construction industry and is certainly workable in this instance. Surely, a delay for due process cannot be harmful to the government or labour's agenda as far as labour reforms are concerned.

In closing, I strongly urge you to base your recommendations on the facts. Do not discard the data our industry has provided unless you have meaningful evidence to the contrary. To get that evidence, we strongly urge you to conduct your own studies. If you do not find information to the contrary or you do not conduct a study, we urge you to have the courage and leadership to recommend to the minister that this legislation must be reconsidered and a true consultative process be used to determine what type of

legislative reform would genuinely provide harmonious labour-management relations and a level playing field.

I now turn it to Dan Greco for comments on the bill itself.

**Mr Dan Greco:** I'll address one fairly simple fact and, in doing so, address a couple of items that are contained in the bill.

The simple fact I'm referring to is that there are workers in this province who prefer not to be members of a trade union. This simple fact has obviously been overlooked, given the content of Bill 40.

The best example of this is found in the proposed amendments to the certification process. Of particular concern is the elimination of petitions or any other evidence that an employee has changed his mind about his support for a trade union after the union has filed its application for certification. This item, I believe, was referred to earlier in one of Mr Offer's questions.

Not only does this bring into question the accuracy of the membership evidence upon which the board must base its decision of whether or not to certify the union but, more important, it will have a significant impact on employer free speech and a significant impact on the individual employee's ability to make a well-informed and reasoned decision.

In this same vein, the elimination of the provision which currently requires employees to pay an initiation fee of at least \$1 prior to becoming a member of a trade union further impacts on the likelihood of the employee pausing to reflect on the seriousness of his decision to join a trade union. The importance of this initiation fee requirement becomes particularly magnified in light of the elimination of employee petitions just noted.

The combination of these two proposed changes alone moves the emphasis away from employees making well-informed decisions and expressing their wishes to facilitating trade union certification regardless of the employees' true wishes.

#### 1410

A fair system would allow the employee the time required to gather the information on which to make his decision and enable the employee to change his mind, if need be, once adequately informed. A fair system would also require a secret ballot vote on all certification applications so that the employees' true wishes are expressed. The rights of individual workers should not be overlooked in favour of the rights of trade unions.

The same comments apply logically to decertification applications. The provisions for decertification should mirror the provisions for certification. Once again, the rights of individual employees must prevail. Although we are familiar with a few instances in our industry locally where termination declarations have been issued by the board, the number pales in comparison to the situations where employees have been unable to follow through on the procedures required to express their wish to no longer be represented by a trade union.

We truly do not have, in the words of the Premier, "a level playing field." Trade unions are sitting on the ele-

vated side of the field and everything we see in Bill 40 indicates that the bubble on the proverbial playing field level will continue to move in the same direction.

To be assured of this we need look no further than the proposed purpose clause. Of particular concern is the first component, which provides that the act should be interpreted to facilitate the rights of employees to choose, join and be represented by a trade union of their choice. This statement goes beyond the existing preamble to the act, and in being included in the body of the act can be expected to influence the board's jurisprudence in areas such as union organizing.

Consequently, the bill not only aims at guaranteeing that employers will not be on a level playing field with trade unions, it also will create an environment where individuals are not on a level playing field with unions.

Do we really want an environment where the rights of unions prevail over the rights of individuals? Believe it or not, there are some individuals in this province who choose, and wish to remain able to choose, not to be members of a trade union.

Those are my comments, and I'll turn it over to Mr Sanscartier.

**Mr Robert Sanscartier:** Good afternoon, everyone. As my colleague mentioned in his opening remarks, my name is Bob Sanscartier and I come before you as the incoming president of the Ottawa-Carleton Home Builders' Association.

This association is comprised of nearly 400 member firms employing over 10,000 people. Within our membership, we have builders, developers, trade contractors, suppliers and associates, and by "associates," I mean lawyers, bankers, engineers, salespeople, and the list goes on.

These people depend on a healthy housing industry. Let me tell you that we have suffered greatly during the last recession or even during this recession, and we are tremendously worried that if these new labour laws now being proposed by the NDP government are allowed to be legislated, it will be another major setback to an economic recovery in Ontario. It will be yet another example of legislation by the present government that will destroy jobs, and worst of all, will destroy future job creation.

I must admit to you that it is an insult to my intelligence to listen to this government blame all federal government policies for being the culprits for job losses in Ontario. Are you so naive to think that your record deficits, your employment equity legislation, your blind eye to the onerous problems occurring at the Workers' Compensation Board and this new labour legislation do not have an impact on the livelihood of so many who depend on your good judgement as their elected officials to provide them with an environment that will provide them prosperity and opportunities for themselves and for their children?

I came here today not to cite statistics from several reports produced by well-reputed firms such as the accounting firm of Ernst and Young and the legal firm of Osler, Hoskin and Harcourt, because based on the previous hearings, you have had the arrogance to turn a deaf ear to these reports that prove that by passing these labour laws, some 295,000 jobs will be lost.



No, I did not come to cite statistics or excerpts from reports, but to try to reason with you, to try to bring you back to your senses. I would like to ask this government: Who do you think you are? Do you seriously believe that you are the ones who create the wealth needed to support our much-needed social programs? Let me remind you, you don't. As you seem to have forgotten, given the proper economic climate the private sector will invest and, by investing in the Ontario economy, will in turn create jobs and taxpayers to support those much-cherished programs.

Do not think for an instant that we do not know that your stubbornness in forcing these labour laws through is only your way of paying back your debt to the union leaders who helped you win the last election.

If this government and the union heads have the well-being of the average worker so much at heart, I ask myself, why would they want to have such a confrontational piece of legislation? Could it be that these labour leaders are so intent on justifying their \$150,000-plus salaries that they have lost sight of the real reason for their being in those positions of power? Have they forgotten that their role is to provide work for their members, not to eliminate it?

In closing, all I have to say is that if you enforce these amendments to the Labour Relations Act, you will have succeeded in damaging the prosperity of the Ontario people, and you will also have succeeded in endangering the prosperity of our future generations, not to mention the survival of our social programs. So I implore you, please start doing what you have been elected to do, which is to represent the best interests of the people of Ontario, not the union bosses.

**Mr Ward:** Thank you, gentlemen, for your presentation. You referred to the Ernst and Young opinion poll that was commissioned by your parent organization or by the business community in general. I don't know if you can recall, but during the free trade debate, the federal government commissioned a task force to look at the impact of free trade on the labour market in Canada. Mr de Grandpré, who was chairman of Bell Canada Enterprises at the time, was the chairman of that task force, and a very comprehensive report was developed called *Adjusting to Win*. What's important is the conclusion of that report, that because of the various intangibles that occur in the marketplace it's next to impossible to decide beforehand the effect of free trade on job loss. As a result, he said, you could never statistically analyse the impact of free trade and compare it to job loss. This was a federal task force.

It's my understanding that the Ministry of Labour commissioned Noah Meltz of the University of Toronto, and basically Mr Meltz advised the Ministry of Labour that the same thing would occur with labour reform: There are far too many intangibles involved in investment decisions for anyone to statistically analyse the impact. You would take infrastructure, training, labour relations in general, a number of areas that really impact investment decisions. We can provide that information to you, because obviously you don't have that from Mr Meltz.

As to investment, when you look around the Ottawa area, and very specifically the retail sector, Business Depot is opening up a store tomorrow and planning 36 stores

over the next three years, including a second one in the Ottawa area; Winners is also opening up a store and plans 15 more, including one in the Ottawa area; Talbots plans to open one next spring; and Price Club plans to open one in Nepean next spring as well. What's interesting is that all these stores or chains—and they're American-owned—have the confidence in the Ontario market to have these expansion plans over the next few years. This is American investment.

When I look at my own community, we have Gates Rubber, and the Canadian director for the operation in Brantford was here and advised this committee, in discussion with me, that it invested \$4 million into the operation in Brantford and is planning to invest \$8 million to make the Brantford plants product developers for the world market. Again, this is an American-owned company out of Denver.

When you look at this—I'm not going to say labour reform is the cause of this investment, nor would I say labour reform is the cause when a plant closes in Brantford. We have had some but it's been due to corporate restructuring, to receiverships due to the economy; there's always a number of variables. It's very difficult for anyone to say that this specific legislation is going to cause one thing or another when there are so many intangibles involved in decision-making.

1420

Gentlemen, if the employees of your specific companies—I don't know if you are union or non-union or how big you are—but if the majority of the employees wanted to make the decision, for whatever reason, to have a trade union represent them, would you agree? We've heard time and time again from various presenters that the obstacles that are currently in place under the existing act—because there are some—should be removed, because the majority of your employees of your specific companies make the conscious decision that "We need a trade union to represent us," for whatever reason.

**Mr Sanscartier:** Maybe I can speak. I am a non-union electrical contractor by trade and I've often asked myself the question, what would I do if my people decided that they needed to be protected under a collective agreement? Would I be able to work within that concept? I don't think I've ever found the answer. But I've been in business for 20 years, and I assume that for the last 10 years the unions have been trying to syndicate my business. The final decision rests with my workers, to whom I have great loyalty, because they share the same loyalty to me.

But that's not really what scares me with these labour laws. These labour laws scare me because, will I be able to provide the job security they need to support their families? You talked a lot about jobs that are being created. How about talking about the investors who are shying away from the Ontario economy because they're scared? If you have \$100 million to invest, you analyse what your costs of doing business are before you invest your \$100 million. You'll look at government policies: Are they confrontational or are they easy to work with? I cited some examples: We're trying to work with workers' compensation; that's a

nightmare, you know. For anyone trying to invest in this province, that, along with these labour laws, has an impact on his or her decision. I'd like to be able to speak to you in five years or in 10 years. Have we forgotten when Quebec imposed its labour laws, that are very similar to these? They had more labour disruptions than any jurisdiction in Canada when they imposed them and they had that for 10 years.

**The Chair:** Thank you. Ms O'Neill, please.

**Mr Sulpher:** I'd like to respond to Mr Ward's question.

**The Chair:** Okay, if you want to prevent Ms O'Neill from asking one, because we're down to five minutes left for the balance of the questions and answers.

**Mr Sulpher:** I'll give a quick answer.

**The Chair:** All right. We're in your hands.

**Mr Sulpher:** My answer to the question of whether it's a majority is that yes, we would support legislation that would allow that majority to certify and become unionized. In fact, in the construction industry, I don't have the exact number but I would think that at least 85% of certification applications are successful. But I would also like to ask Mr Ward, in the event that a unionized company wants to terminate those rights, and of those employees the majority wants to get out, should there not be equal legislation that will make it as easy for them to terminate their relationship with the union?

**The Chair:** All right. That brief answer was like some of the brief questions that get asked. Go ahead, Ms O'Neill.

**Mrs O'Neill:** Gentlemen, the Ottawa Construction Association has presented briefs in my presence before, and I want to say that you always present succinctly. You always seem to focus the presentation and you seem to pick out key aspects of legislation that's proposed. I think you see that even in the meeting here there is a confrontational approach, and legislation lives by that. All of us in the Liberal caucus on this committee had lunch with a Sparks Street businessman today. He spoke exactly as you are speaking, although he's in a different industry in this city.

I feel that the tripartite group you mentioned is very much tried in other jurisdictions. It hasn't even been looked at by the present piece of legislation, and I think there's something really wrong about that.

The impact studies you asked for: I'm sorry, I don't accept the NDP members' excuses for not having impact studies. We have impact studies on all kinds of things. Whether it be education, health issues or labour issues, they are possible. They may not always be foolproof, but at least they give you some indications.

You've used phrases—and they're not just phrases; they're reality—that there have been major setbacks, because we knew and we hoped that in 1992 the housing starts would increase much more than they have in Ottawa-Carleton. I wonder if you could just try to be as specific as you have been in other questions about how this bill has affected those housing starts.

**Mr Sanscartier:** I think by creating uncertainty along with other pieces of legislation; people aren't sure whether they'll have a job tomorrow. You're right to say that we were expecting a faster recovery from this recession. The housing market hasn't picked up quite as we would have expected—a far cry from it—and a lot of our members are worried about this coming winter and whether they'll still be in business. It's very delicate.

**Mr Sterling:** I'd like to use a bit of my time to ask the parliamentary assistant whether the government has undertaken any feasibility studies.

**The Chair:** You can do that after the presentation.

**Mr Sterling:** Okay, good.

We had a presentation this morning by an association representing security officers. Construction sites are dangerous places. Presumably, they're going to have the right to strike after this legislation is finished and it's not going to be possible to hire replacement workers. How are you going to ensure the safety of the public if this takes place? Is it going to be possible?

**Mr Sulpher:** It's going to be more difficult. I don't know how; perhaps shut the job down until the settlement with the security guards is reached and they can come back to work, putting who knows how many people out of work until another group in another industry decides to come to an agreement.

**The Chair:** I want to say thank you to the Ottawa Construction Association for its participation in this process here in Ontario. You've played an important role and we're grateful to you for your contribution. Take care, gentlemen.

The next group is the International Association of Machinists and Aerospace Workers, if they would come forward and have a seat. While they're doing that, Mr Sterling, if you wanted to put a question to either research or the government, go ahead.

1430

**Mr Sterling:** When this group is here, and as a fairly new member of this committee, I'd just like to ask the parliamentary assistant: Has the government undertaken or is it presently undertaking any studies as to the impact of this legislation on the economy, on jobs, etc, and is it going to produce any before this legislation is called for third reading?

**The Chair:** Do you want to answer that now or do you want to commit yourself to answering it during the course of the day or tomorrow?

**Ms Murdock:** The study that we have done—we commissioned Noah Meltz, the doctor at the university, to do something at the beginning. Basically, the thumbnail summary of his report is that there are so many variables that this legislation alone—you can't make that, nor do you know how many people will opt to organize when Bill 40 becomes law. So that's the study that has been done.

In terms of looking at that, we have been trying to see other jurisdictions and see if there's been an impact there as to the effect of replacement worker legislation, for instance, and that kind of thing, but—



**Mr Sterling:** Can we see the results, then?

**Ms Murdock:** Of the Meltz study?

**Mr Sterling:** No, the other study you were talking about.

**Ms Murdock:** It's ongoing, and I don't know whether it's even been completed or compiled, but I can certainly find out from the ministry staff where we're at on it.

**Mrs O'Neill:** Mr Chairman, have we had the other study tabled for committee?

**Ms Murdock:** The Meltz?

**Mrs O'Neill:** I think it would be useful.

**The Chair:** Go ahead, Ms Parliamentary Assistant.

**Ms Murdock:** I can supply a copy and we can get copies made.

**The Chair:** Thank you.

#### INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

**The Chair:** Now to the International Association of Machinists and Aerospace Workers. Please tell us your names and your titles, if any, and make your submissions as you wish. Please try to leave the last 15 minutes for questions and exchanges.

**Mr Jim Reid:** Thank you, Mr Chairman. Good afternoon. My name is Jim Reid. I'm a special representative with the International Association of Machinists and Aerospace Workers. On my left is Henry Albert, president of local lodge 412 of the Ottawa-Cornwall area. His local represents 150 workers in that area. On my right is Peter Villeneuve, president of IM Local 1542 in the Boeing area in Arnprior, representing 600 members of Boeing. Unfortunately, our vice-president, Mr Bourgeois, was not able to be here today, so I'm making the presentation for him.

We welcome the opportunity to present our views on Bill 40, amending the Ontario Labour Relations Act and the Employment Standards Act, to the resources development committee of the Ontario Legislature.

The International Association of Machinists and Aerospace Workers has represented Ontario workers for more than 100 years. We have 18,000 members in Ontario in a wide range of manufacturing and service sectors.

We believe that the proposed changes to Ontario's laws governing the workplace are important and progressive. While they still lack some of the elements we desire, we believe the proposals will have a positive and necessary impact on labour relations in this province.

We're shocked by the hysterical and hypocritical response of much of the business community in Ontario to this legislation. The workers of this province have been tarred with the label "special interest," yet those using this label are the representatives and members of associations, federations and alliances that certainly are as much a special interest, if not more so.

Unions represent workers—not just the members of our organizations, but all workers. Whenever union-sponsored changes occur that better working conditions, all workers benefit. We don't understand how business leaders who preach cooperation in the workplace can react so

violently and irrationally to the very limited progressive measures proposed.

There is little that is new or radical to Canada in what Bill 40 proposes. Virtually all these measures are in place and are working effectively in other Canadian jurisdictions. We believe that the opportunity for workers to freely select their bargaining agent is a matter of fundamental fairness. The maintenance of mutual respect and dignity in labour-management relations, even during legitimate disputes and disagreements, is a key to a cooperative and well-functioning workplace. Bill 40 will allow for a higher degree of fairness and a better atmosphere in Ontario workplaces, which is of benefit to both labour and management.

We'd now like to discuss briefly the various aspects of the bill.

Organizing and first agreements: First, we believe that the right to organize and bargain collectively is fundamental. It has too long been arbitrarily denied to major segments of the workforce.

The current prohibitions on the unionization of professionals are archaic. There's never been any justification for denying domestic workers the right to unionize, and we hope that the government will move quickly ahead in extending the right to organize to agricultural workers.

The prohibition on security guards joining the same union as other workers at their workplace is unique to Ontario. There's no basis for the presumption of conflict of interest which underlies this restriction. It's not justified by any evidence, and we applaud the removal of this restriction.

The right to freely choose a union is a right which can be undermined explicitly or subtly by various means. Illegal discipline or discharge for union activity is unfair to the workers involved and has a chilling effect on legitimate organizing. Quick hearings and strict time limits for OLRA decisions, along with the authority to reinstate discharged employees pending the outcome of a hearing, will reduce the potential for unfairness in organizing campaigns.

We're disappointed that Bill 40 does not provide unions with access to employer property during organizing campaigns, but we do welcome the guarantee of legitimate access to normally public property like shopping malls and industrial parks during organizing campaigns and disputes.

In the certification process, the removal of some of the artificial barriers in current legislation will facilitate quicker and fairer decisions. This should reduce costs for both parties.

The \$1 membership fee requirement has been nothing but a nuisance for some time and is nothing more than a carryover from the days when a dollar was considered folding money.

The reduction to 40% of the percentage of cards required for a representation vote will allow more workers the right to freely choose their representatives and lessen the impact of overaggressive anti-union employers.

Anti-union petitions are, almost without exception, tactics undertaken by anti-union employers to delay certification and undermine workers' freedom to choose their union. The prohibition on such petitions after an application

for certification will reduce employers' opportunities for such abuse. This change brings Ontario in line with all other Canadian jurisdictions.

Legislation currently restricts the ability of the OLRB to provide automatic certification where employers have committed very serious breaches of the law. We're pleased to see this restriction removed and hope this will encourage employers to obey the law.

Among the important changes in the workplace in the last decade has been a major increase in the proportion of part-time workers. Bill 40 recognizes this in allowing the OLRB the flexibility to combine full- and part-time workforces in a single bargaining unit if the union involved makes the request. Extending this authority to the merging of bargaining units of the same employer belonging to the same union will also facilitate more sensible bargaining patterns, resulting in better workplace harmony and reduced negotiation costs.

Many employers carry their anti-union animus into bargaining for a first agreement. If the right to unionize is to have meaning, it must be connected to the right to fairly bargain a collective agreement. The current long delays in the first-contract arbitration process encourage recalcitrant employers to avoid serious bargaining, hoping to undermine new union support. We therefore believe that quick access 30 days after the strike/lockout deadline to an arbitrated agreement, without having to go through the long process of proving unreasonable tactics on the employer's part, will facilitate first-contract negotiations.

We welcome the requirement that workers be protected from unjust dismissal even before a first agreement is signed and during strikes or lockouts. The requirement that all agreements provide for protection from arbitrary employer discipline is an important recognition of this fundamental principle.

**Labour disputes:** Even though most collective agreements are settled without recourse to strikes or lockouts, the possibility of a strike or lockout plays a key role in collective bargaining. It is the ultimate weapon, with a significant cost to both sides. That puts pressure on both sides to bargain seriously.

The ability to hire replacement workers reduces the pressure on the employer to negotiate. It unsettles the bargaining relationship and is the main source of anger and violence in disputes. We therefore are pleased to see that Bill 40 will outlaw the use of outside replacement workers in legal strikes and lockouts. While this prohibition is not as broad as it might be, it recognizes that a strike or lockout is simply an episode in a continuing worker-employer relationship and that the best interests of all are served by reducing the potential for confrontations.

The requirement that benefit coverage be maintained during a legal strike if the union covers the costs also reduces the likelihood that long-term relationships will be destroyed by petty and vindictive employer actions.

1440

The elimination of the artificial six-month limit on employees' right to return to work will put pressure on employers to seek solutions without relying on the threat of the six-month deadline to hammer workers into submis-

sion. The principle of return to work based on seniority removes another potential impediment to many settlements.

We feel that, taken together, the changes to the provisions concerning strikes and lockouts will serve to make bargaining in Ontario more productive, reduce the number and duration of work stoppages and generally improve the labour-management atmosphere in Ontario workplaces.

**Successor rights:** As a union with membership in both the federal and provincial jurisdictions, we are well aware of the confusion and disruption which arise when a business is sold and moves from the federal to the provincial jurisdiction. We are therefore pleased that the OLRB will be able to apply successor rights provisions to such changes.

The contracting of services is an increasing phenomenon in the Canadian economy. When work is transferred to a contractor or between contractors, workers usually suffer. In almost every case, they are forced to take cuts in hard-won wages and benefits, if they are able to keep their jobs at all. Bill 40, therefore, is taking a major step forward in providing successor rights protection for these most vulnerable workers.

The labour relations system: Bill 40 also provides for a number of changes which will have a positive influence on the process of labour relations in this province. Providing greater authority to the OLRB to make interim orders and to impose terms and conditions when there has been a finding of bad-faith bargaining will offer the board greater flexibility in dealing with difficult situations.

The costs and the delays of the current system of grievance arbitration have been a source of complaint from all sides for many years. We hope that the fee schedules and time limits provided for in the legislation will help alleviate these problems.

Extending the authority of arbitrators to deal with all employment legislation should also serve the process by reducing debate on each arbitrator's jurisdiction. This change should, however, be accompanied by intensive training for arbitrators, who will in many cases be required to move beyond their areas of expertise.

We are pleased that the legislation is moving in the direction of recognizing employers' responsibility to justify plant closures and layoffs and, more particularly, to negotiate towards a labour adjustment plan. While we would have preferred a stronger set of obligations for employers to justify irregular layoffs and shutdowns and to pay for the costs of dislocation to communities as well as workers, we accept the requirements of Bill 40 as an important step in the right direction.

Finally, we are only mildly optimistic about the impact of the requirements in the bill to provide for regular workplace consultations and the creation of the new workplace organization and partnership development service. We do not yet see much evidence that employers are seriously interested in truly sharing with workers the direction of the workplace. Without such a commitment, labour-management discussions are not likely to be very productive.

In closing, we believe that the current amendments in Bill 40 will go a long way towards improving labour



relations and the situation of workers in this province. While not revolutionary in their impact, they will contribute to a healthier and less confrontational workplace. We urge the committee to unanimously recommend that the government put this bill, as presented, into effect as soon as possible.

**Mr McGuinty:** Thank you, gentlemen, for your presentation. I take it that on the whole you do not find a great deal wrong with Bill 40. We've had, or course, many presenters who have taken essentially the same position, but we've also heard from many others who have some serious difficulties with Bill 40. What are we to make of those submissions? I cannot dismiss them all as being without any foundation or not being sincere or for some kind of ulterior motives or purposes.

Even if we set aside the concerns that business has raised regarding Bill 40, what are we to make of groups such as the children's aid society, which feels that some of the provisions in here will interfere with its obligation to care for children in the event of a strike? What are we to make of the domestics, who have told us that this really will not assist them and that they will continue to suffer some of the abuses which they traditionally have? The garment workers have expressed the same kinds of concerns, and the Municipal Electric Association told us that some of the provisions here may interfere with its ability to provide us with electricity. What are we to make of all of those concerns?

**Mr Reid:** The previous speaker was asked a question about his employees, and he said that he employs a certain number of people and they have not unionized in 20 years. I think the concerns that are expressed get away from the point that it's still the worker's choice. What you're speaking of is limiting the right to choose, and that's a fundamental right we have, a right to join or not to join a union. This bill doesn't force anybody to join. It still leaves that open for them.

**Mr McGuinty:** Let me break it down for you. In the case of municipal electric associations and the children's aid society, they're already unionized, but those unions are acquiring additional rights under Bill 40, and the concerns that have been expressed are dealing with those additional powers. So in those circumstances, we're not talking about the issue of whether or not someone has to join a union, and in the other circumstances—domestics, garment workers—they are not going to benefit under Bill 40. I'm just trying to ensure that you understand that this legislation, like any other piece of legislation that's ever been introduced, is not perfect.

**Mr Reid:** No, it doesn't go far enough.

**Mr McGuinty:** It doesn't go far enough as far as the garment workers are concerned, and in some cases I would argue that it goes too far.

**Mr Reid:** Well, I would argue differently. As for the electrical workers, I come from the Toronto area, and when CUPE locals have gone on strike in the local area for the electrical boards, they've always maintained the emergency services required. Where there's a possibility of danger to the public, I don't know of any union that will

ignore that danger and not provide the emergency services to the employer during a strike or lockout. It just has to be negotiated.

**Mr Offer:** I don't think my question is going to come as a surprise to you, as an international. I think there are something like 14 internationals in the province. You're obviously one of them?

**Mr Reid:** You'd think so.

**Mr Offer:** You know that about three weeks after Bill 40 was introduced, a further bill, Bill 80, was also introduced by the Minister of Labour, which spoke to the issue of disaffiliation. Basically, the legislation provided for the ability of a union to disaffiliate from its international if it wished to by way of a secret ballot vote. That's already agreed to and it's embraced in principle in the legislation.

If you agree with that, I wonder whether it's right and proper to extend that right that is already in Bill 80 to all workers of this province in the area of choosing whether or not to join a union; in other words, a secret ballot vote with full protection against coercion and intimidation from whatever source.

**Mr Reid:** I'm not sure I understand the exact thrust of your question, but as to disaffiliation, in the current legislation there's already the opportunity at the end of whatever the term of the contract is to decertify. There have been plants that have decertified and immediately joined another union, and that's disaffiliation in a certain context.

I wasn't aware of Bill 80, but again, in a democratic society, it's the will of the majority. If they vote to do that and they do it the proper way, that's all that's necessary, isn't it? I imagine that when you go to caucus meetings, if you're in the minority, you don't come out and show up your caucus by not going along with it.

**Mr Offer:** I appreciate that response. So you as an international are in favour of the will of the majority in a secret ballot vote.

**Mr Reid:** We always have been in favour of democracy in the Machinists.

**The Chair:** Sometimes one's commitment to what's right and just is so strong that one can't help himself or herself.

**Mrs O'Neill:** You wanted that in Hansard, didn't you, Mr Chairman?

1450

**Mr Wood:** Thank you very much for coming forth with a very well-put-together presentation. I've listened attentively to what you've said and have a couple of brief questions. We heard a previous presenter today indicate that there is a level playing field out there already, that as a matter of fact some of the legislation might be in favour of the workers and there's not enough protection for the employers. I hope you were here when the presentation was made.

**Mr Reid:** Yes.

**Mr Hayes:** I just wondered what your reaction is to that. Do you believe there is a level playing field out there for domestics, part-time workers, people in this category, who want to belong to a union to get some protection?

**Mr Reid:** No, I don't think so. There are loopholes in any legislation, and where there are loopholes, you always find lawyers who are willing to try to work through them and subvert them to whichever side hires them. We're constantly working uphill in organizing campaigns against petitions, employers' letters, captive meetings, the ability to get hold of the workers; these types of things. In some cases where you have people who come from different countries, language is a problem. The fear of authority is a problem. People need jobs. They're all problems, and those certainly take away from the playing field and certainly don't make it level. If it ever was level or in favour of unions, I don't think I've ever seen that day.

**Mr Wood:** You have mentioned in your brief that you feel that Bill 40 does not go far enough. But do you feel you'd be able to live with Bill 40, and if in three, four or five years there are further changes required, that's something you could live with as a union?

**Mr Reid:** As we do in any negotiations, if we get a contract we always look to build on it. With any legislation, nothing's perfect from the outset, and I think you have to start building. This legislation that's currently in effect was last amended I don't know how many years ago, and I think it's time for some changes.

**Mr Wood:** In 1975. Just a brief one before I pass it over to Mr Hayes. In the case of petitions, I just want to know what your feeling is. Do you believe that petitions should be eliminated entirely, that there should be no petitions from employees or employers? We've heard a lot of presentations that 99.5% of the petitions brought forward are brought forward by employers and are proven to be so before the board. Do you believe that they should be eliminated entirely?

**Mr Reid:** Yes. The board overturns those types of petitions. It's a waste of time. It lengthens the process and creates a more head-banging process in negotiations, and it's not necessary. It's better to get on with the negotiation, get on with the fact of life that your employees have chosen to organize, they've chosen the union. Negotiate.

**Mr Wood:** The secrecy of signing up cards and members signing the cards would be enough to—

**Mr Reid:** Yes.

**Mr Hayes:** Thank you, Mr Wood, for sharing your time. The one question that keeps coming up is that there are some people who feel that if you have 55% of the workers who sign cards to join the union, you should therefore go forward and have a secret ballot vote on whether they want to join or not. Can you give us your position on that particular question?

**Mr Reid:** We've worked under the 55% in the current legislation; it provides for automatic certification. Again, if you go towards the secret ballot vote, at any percentage, you're tying up time, you're tying up resources on both sides. The employer doesn't need the loss of productivity while people stand around and talk; neither do we. We don't organize to put people out of business; we organize to represent the workers. We don't negotiate to put em-

ployers out of business; we negotiate to get a fair deal. Fairness is what the issue is.

**Mr Bisson:** That's the point I wanted to get at. Some people have said—I've not directly heard it at these presentations, but I've heard it in discussion throughout the province—that new unionization will lead to less productivity within the workplace. Perhaps you can respond to that, because I find that interesting. I'm not going to go any further.

**Mr Reid:** In a non-union environment, if the employer is pulling all sorts of shenanigans, people stand around and talk about that; they're upset and they don't know where to turn. You get more of that than if they have a grievance procedure that they get with the negotiated collective agreement. If you have a grievance procedure, you file your grievance and you get back to work. The steward takes care of the grievance. I think there's more productivity in the union environment.

**The Chair:** Mr Sterling.

**Mr Sterling:** I'm sorry, I had other things; I had to slip out just after you started your brief, but I did hear you supporting the security guards' right to join the same union. I had asked the construction people a question about security of the site if in fact security guards go on strike and you're not allowed under this legislation to hire replacement workers. How are we going to secure a construction site without hiring replacement workers and protect the public from the dangers of a construction site if this legislation passes?

**Mr Reid:** I believe the legislation allows the gentlemen from the construction association to stand there overnight and guard the gates. They could stay awake and do that if they wanted. That's their right under this legislation. We feel there shouldn't be any right to the work being done, and if that's necessary, they should just lock the doors and settle the strike.

**Mr Sterling:** But you don't lock the doors of a construction site. I mean, you have to have people around the edges to make certain kids don't get in and hurt themselves. How are they going to do that?

**Mr Reid:** It's provided under the act that management people can do the jobs, fulfil the function of the striking workers.

**The Chair:** Gentlemen, Mr Reid, Mr Villeneuve, Mr Albert, thank you very much on behalf of the committee for your participation on behalf of the International Association of Machinists and Aerospace Workers. You've provided valuable input, and the committee is grateful to you.

#### WOMEN'S PLACE

**The Chair:** The next participant is Women's Place, if those people would please come forward and have a seat. Tell us your names, your titles or positions, if any. We've got your written submission, which will form part of the record by virtue of being made an exhibit. You can either read all of your written submission or highlight it, but please try to keep the last 15 minutes for exchanges and dialogue.



**Ms Patricia Petrala:** My name is Patricia Petrala. I'm the past president of Women's Place, and I'm still on the board. Joining me is Sheela Biman. She's a volunteer with Women's Place, but also is the coordinator of the Multicultural Council of Professional Women.

The first sheet you have on the submission is a cover sheet that explains to you what Women's Place is. We're one of 22 women's centres. You did hear a presentation from the Thunder Bay Women's Centre earlier.

Beginning on page 2, I've clustered the remarks by topic for brevity, and will not address any statistics, labour research or policy, nor legal interpretation or process.

Communication: Frankly, the way Women's Place and many other women's groups have been drawn into offering comment on this proposed bill has not been acceptable. Timing and insensitivity to the process and expertise perceived in the grass-roots community has been entirely lacking. Women's Place was pressured by constituency staff to obtain the bill or working information and present it within four weeks. We also feel responsible to our community to remain visible and at least provide comment on what we can. We do appreciate the opportunity.

The common practice of most groups is to have a board or collective and membership discussions, with complete information and identified resource persons over a longer period of time. We want to become equally informed and able to generate constructive comment by consensus. Within a volunteer framework and logistical constraints over the holiday period, we have not been able to meet our own standards and have to rely on a few to reach many and to try to identify commonalities to present.

Business and institutions with a stable economic base, staff and other resources are better able to mobilize a squeaky-wheel media blitz and to trumpet their agenda most strategically. Women's groups and other grass-roots-based volunteer and not-for-profit organizations are consistently disadvantaged in receiving complete and understandable—that's layperson's English—information in preparing for briefs, to hold constructive dialogue, public and media visibility and general input.

#### 1500

The questionable logic and imagined angst—expressed by business and the new coalitions which are hyped by sophisticated advertising and PR firms then gobbled up hook, line and sinker by the media—is profoundly flawed. Their backlash speaks volumes as to their insecurity, fear and unwillingness to share power and to cooperate with employees. They offer evidence of their attitudes and unwillingness to form productive partnerships with workers and to contribute more effectively to building a stable, growing and fair economy for Ontario.

This is not new information or perspective, but hear us now. Women are a part of Ontario's workforce and we are here to stay. We will not go away and we will organize. We will continue to improve our collective knowledge, power and influence on all issues, laws and processes that affect our lives daily. As melodramatic and reactionary as business and industry choose to behave, we women reject their bullying and question the motivations of these big boys and their brothers in the mainstream media.

There appears to be the usual blaming of women for family breakdowns that is being touted and resentment of working women at all levels of the labour force. Get real. Women want to be able to choose to work in or out of the home and to be paid fairly, receive benefits and negotiate at the tables as equals. Many women do not have a choice; their survival requires working outside the home.

#### Communication recommendation:

1. Future requests for briefs and presentations by the government should make available, with reasonable time for access and review, perhaps through constituency offices or women's centres, a timely fact sheet on the bill or the issue in clear, simple English, a list of identified resources in print or people available at no cost, plus support and guidelines regarding the process. For example, a "How To Do a Brief" fact sheet explaining the length of a brief, oral or print, how many copies, time allowed, how your group is selected and what happens should be available on request for novices. As volunteer groups recycle their teams, we try to train novices and mentors, but we look to the government for support.

2. It would be useful to have a map or chart indicating a holistic view and the interrelationship of this bill and/or other bills or issues in the future to other employment and labour legislation and how they support or counter each other. For example, collective bargaining and organizing may prove integral to implementing employment and pay equity, health and safety, negotiated benefits and so on. Women working in isolation may never have access to the complete picture of working rights, privileges or options beyond that information their boss provides, usually on minimum wage, taxes and his terms of employment.

Women's Place supports the initiative of the government of Ontario to initiate improvements to the act. We appreciate that this will be one step of many towards improving the economic situation for women in Ontario. We will pay attention to its implementation and additional improvements in the future.

The two briefs presented by the National Action Committee on the Status of Women are acknowledged and appreciated. We trust that provincial perspectives by other women's groups will complement and enhance their position. The recommendation to examine various models for achieving broad-based collective bargaining is seconded. Women do not always fit into the existing male frameworks, and unions haven't consistently proven to be gender-responsive, -supportive or -sensitive. Women are generally not endeared to unions. The call for a review of the Employment Standards Act is affirmed.

Our sister Women's Centre in Thunder Bay aptly expressed the reality it faces and we support its statements.

We would welcome an opportunity to receive a summary of your gender-focused findings for supplementary input in addition to the overall report.

Education: As the government proceeds to enact new laws, Women's Place, as a conduit for the community, would appreciate support and information to educate a broader base of women and groups.

It is unclear how our youth fit into these changes and will be educated on their rights and options as full- or

part-time workers. Will there be information available to educators to build with our youth the importance of collective bargaining and its impact on them now and as they participate more fully in the future? Up-to-date labour practices and laws should be a part of basic education in our schools.

How will our new Canadians become informed of these laws and reduce any exploitation? Is there a conduit with the Department of Employment and Immigration to instruct domestics, transient labour and others on their rights and where to connect for support and information? Will changes to the unemployment insurance and training packages work for or against women's educational opportunities if they are not part of a collective bargaining unit?

Gender: As laudable as these constructive legislative improvements may begin, the entrenched systemic barriers and attitudes will require considerable effort by all partners to really bring change into the working woman's life. Beyond paper rights, we look for strengthening legislation, tools, information, support and action to ensure that women are equal partners in building Ontario's economy. We expect equitable representation on all decision-making bodies, commissions and review boards.

What means will the government provide to enable women to organize? Parachuting an outsider to mobilize a group of workers has not proven to be as effective as women getting timely information, training and tools to organize themselves. Time, money, energy and a lack of understanding often deter initiative.

Unions: The gains made for women in a union are positive, and those who are a part know their wages generally are more fair. Unions must address their real and perceived image and operational problems, from self-interest, seniority manipulation, antagonistic stances, playing one group against another, systemic patriarchal processes and so on. "Scabs" and other outmoded language needs to be recycled. There have been some concerns voiced that the choice to opt out of a union, the dues and the process is not available. Is there a vehicle for personal choice to exist in the framework of an organized workplace?

General improvements: With more and more home-based entrepreneurs, contracting out of work and other means of earning an income, women are increasingly struggling to cope. Will this legislation allow for travel agents, insurance agents, professional associations, hairdressers and other irregularities to organize for collective improvement to their working conditions and benefits? What choices can workers have if the existing unions are not suitable for their circumstances?

What safeguards will the government offer to reduce scapegoating women organizing as a business rationale to move south? The real or perceived risk to a livelihood as presented by a company may continue to deter workers from organizing and exercising their paper rights. Free trade and Mexico have chilled the vision of a strong Ontario for many.

Thank you for your time and the opportunity to draw to your attention some concerns and our support.

**Mr Sterling:** I don't know—maybe you could help me out or maybe the parliamentary assistant could help me

out—but is the employment equity legislation which we now have in the province of Ontario applicable to union organizations?

**Ms Murdock:** Employment equity legislatively, as a provincial piece of legislation, would apply everywhere.

**The Chair:** Every employer, is that what you're saying?

**Ms Murdock:** Every employer, yes.

**Mr Sterling:** Every employer, so it would deal with it. Okay, I just didn't know whether that was the case or not.

**Ms Murdock:** It hasn't gone for third reading yet. It's going, though, I'm sure.

**Mr Sterling:** You state in your brief on page 1 that Women's Place was pressured by constituency staff. Which constituency staff was that?

1510

**Ms Petrala:** Well, several of the board members live in different neighbourhoods and were known in the community to be active and vocal on women's concerns. I'm in Chiarelli's ward; Women's Place is in Ottawa Centre, Evelyn Gigantes's riding; one of the members lives out near Orleans—I don't know who her member is—but we do get calls from staff saying, "Are you doing something?" or "Won't you do something?"

**Mr Sterling:** Okay. It's just as a matter of interest.

**Ms Petrala:** Consistently, Women's Place is turned to present nationally, provincially, municipally on all the issues.

**Mr Sterling:** You've mentioned a lot of issues in here that you're concerned about. What is the issue you deem as most important for the provincial government to deal with? A lot of your brief deals with sort of the process and those kinds of things.

**Ms Petrala:** Part of the major problem is that women in the community on the whole, whether they are organized or not organized, are not well versed in what their rights are and how does it work. There's no simple language that says, "You have to get minimum wage plus 10% because you're in this situation," or "You get minimum wage with tips," or "You get a 6% increase after a year." They have no frame of reference. They rely entirely on whoever hires them to guide them through what they do or do not have to do. "You have to pay taxes." "Yes, you come and work in the grocery store and you have to join the union." "Why do I have to join the union? I'm only working 20 hours a week."

In some institutions people are just confronted with the whole mechanism of labour law and they don't know where to start. We're no experts, and there's no simple resource that we can find that gives the answers.

**The Chair:** Mr Bisson.

**Mr Bisson:** I thought I was after. There are a couple of things you mention here that are really interesting. One of the things we tend to agree on, and this is just a comment going through, is the question of empowerment. I think we have to start the empowering process much earlier than actually getting into the workplace, not only on questions of workplace laws but also what your rights as



an individual within the society are. Maybe you can comment on it after. I think it's quite interesting that sometimes our educational system doesn't fulfil that need to make sure that women and other people understand what their rights are.

Just one thing is that I thought it was interesting you made a recommendation in your brief that I think maybe some of us never thought about, and that's the whole question of trying to find some sort of mechanism to assist groups that are not used to the process of making presentations to committees. Now, we do have somewhat of a service that we offer; either the committee people or the Clerk's office would assist in telling you and answering some of the questions you raise. But you raise an interesting point and maybe it's something, as committee people, we should be looking at a little bit further.

My question is this: At the end of your submission you made a comment, and I'd like to get your feedback on it. You were saying in the second-last paragraph of the last page under "General Improvements," "What safeguards will the government offer to reduce scapegoating women organizing as a business rationale to move south?" I wonder if you can expand on that a bit and, if you have a chance, to comment on the others. Are you saying what I think you're saying?

**Ms Petrala:** I'm not sure what you think you're saying.

**Mr Bisson:** Some people would.

**Ms Petrala:** Particularly in the garment industry, where a large percentage of workers are women and some actually do work from home, now with the free trade agreement opening up, some of them fear that if they get organized and unionized, even working in isolation they're going to shut the shop and they'll be out of business entirely.

**Mr Bisson:** Do you think that's a real threat or is that a perceived threat on the part of women?

**Ms Petrala:** Again, I don't work in the industry, so I can't speak for them, but it's just something that has come up in the discussions of people who work in the industry.

**Mr Bisson:** So it's something your group has picked up, that people have brought.

**Ms Petrala:** That's correct.

**Mr Bisson:** Interesting.

**Ms Murdock:** Thank you for coming in, especially because I understand how much you seem to have been under some pressure to get this done. I appreciate your having taken the time to come in and do it.

That is actually part of the thing I wanted to ask you about. In terms of the four weeks, how much time would a group such as yours require in order to appear before any committee or a task force or whatever?

**Ms Sheela Biman:** I think we need at least six weeks. As far as our organization is concerned, we are not presenting any because the person who was supposed to do the presentation is sick. Then I had to find another one. She got sick. So I'm cancelling a lot of presentations for the Multicultural Council of Professional Women, but I am supporting Women's Place. But if we had six weeks, at

least two or four weeks more, I could have done the job myself. I wouldn't have to depend on anybody else. I am completely new in this Ottawa area and I don't know all the system here and how it works. I was in northern Ontario, very close to Sudbury, where you come from.

**Ms Murdock:** Yes. Would that apply to all the women's organizations you deal with at Women's Place?

**Ms Petrala:** Normally, because they meet once a month as a board, and if you're going to do a telephone tree or call an ad hoc working committee, set up a phone tree and call in 25 people to work on this and discuss it, the lead time to organize that is you have to give them two weeks' notice to come to a meeting, find the resource people, the space, sit down, get educated, then go home and think about it, meet again, do a draft brief, go through it and come to some consensus. We at Women's Place link with the 160-odd women's groups in Ottawa-Carleton, and then a lot of them would like to have their own voice for their own position because it's not part of our common experience, say, the African Women's Congress or something like that. We can't speak on their behalf; they have their own voice. But to get up the logistics of who will speak for themselves, who will speak collectively, six weeks minimum, and two months would be better.

**Ms Biman:** That's right. Six weeks to two months.

**Ms Murdock:** Okay, and in terms of all these women's groups that are part of your organization for information purposes and meeting purposes and resources and that kind of thing, are the preponderance of them part-timers or home workers or—

**Ms Petrala:** There's a mixed bag. Like I said, in Ottawa-Carleton we have about 160 women's groups, and that includes the Council of Women, Voice of Women for Peace, the Ladies' Auxiliary of Ottawa Civic Hospital, the Anglican church—there's just a cross-section, a mix of mature women, homemakers, mothers and women, some political, some not political, some social, some personal development groups. We have support groups meeting at Women's Place, like incest survivors and things like that, that don't necessarily want to get involved in other issues; they have other priorities. So it really takes us time to mobilize and identify who wants to tackle any of these particular concerns.

**Ms Murdock:** And you're suggesting that the constituency offices perhaps be the mode of getting information to your organization?

**Ms Petrala:** It's one conduit, and it's the conduit we rely on, but certainly if you utilize women's centres throughout Ontario—there are 22 of them—and give us the resources to mobilize our communities, then certainly we can be more effective.

**Mr Offer:** Thank you for your presentation. I think you've touched on some very important areas.

Do you think it would be beneficial if there was an amendment in the legislation that if there was an organizing campaign taking place there be a notice in the workplace to the workers advising them and telling them what

their rights are in that area under the Labour Relations Act?

**Ms Petrala:** That would be a useful tool as a start, certainly, depending on where you're organizing and the level of literacy and English skills. You'd have to pay attention to that.

**Mr Offer:** I take it almost as a given that there would have to be a sensitivity to the different languages and culture and all that, but that shouldn't deter the effort to provide information impartially and without any fear of intimidation or coercion.

**Ms Petrala:** Yes.

**Mr Offer:** On page 4 of your presentation, in the second paragraph you have indicated, "Parachuting an outsider to mobilize a group of workers has not proven to be as effective," and it goes on. Could you expand upon what that means?

**Ms Petrala:** I'm trying to recall the story. I had talked earlier with someone in the retail sector, so maybe I'll play on that. If you are in the retail sector, Betty's Boutique, and you are not aware of your rights but you're having a problem and you talk to your neighbour whom you got to know across the shopping mall and she has a similar problem where it's deciding shift work or something, she may not know where to outreach to get information, but at the same time you might have a union person walking through the mall saying: "If you're having any problems, give us a call. We can come in and help you." People are not comfortable with strangers coming into the milieu to organize them. It creates suspicion among the workers and it creates suspicion among their bosses. What's the motivation? Who brought this on? The individual who may have made a complaint that got somebody from the union to come in and talk to them may not necessarily work to the best advantage of everybody concerned.

1520

**Mr McGuinty:** Part of the learning experience, I guess, for all of us on the committee is to gain a better understanding of, when an organizational drive is under way, a lot of the activities seem to be subterranean. There's a lot of subterfuge. I'm wondering, could we not put it on the table? I think certainly a starter would be to hold some kind of notice which advises all the participants what their rights are. What do you think of the idea that in bringing it aboveboard, putting it on the table, at the end of the day the workers would be entitled to vote? It's by secret ballot in order to determine whether or not they would be joining a union. What do you think of that idea?

**Ms Petrala:** If all the information is up front and people are equally informed and comfortable with the process, and allowing for some dialogue among the people to confirm their understanding, a secret ballot wouldn't necessarily create any difficulty, I wouldn't imagine, as long as people are making an informed choice and not feeling intimidated or insecure about their choice.

**Mr McGuinty:** Yes, absolutely. Thank you.

**The Chair:** I want to thank you for appearing here this afternoon on behalf of Women's Place. You have pro-

vided some unique insights—perhaps not unique; at the very least, insights not yet provided or never before provided to the committee. You've obviously captured the attention of all of the caucuses, all of the members of the committee, so we thank you. We appreciate your input. You played a valuable role in the performance of this committee. Take care.

#### UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION

**The Chair:** The next participant and the last one for the afternoon, long-time advocate of a common pause day, the United Food and Commercial Workers International Union.

Please, sirs, have a seat. Tell us your names and your titles and carry on with your comments about Bill 40.

**Mr Barry Bailly:** My name is Barry Bailly. I'm the eastern regional director for the United Food and Commercial Workers Local 175, which is the largest local union in Canada, covering some 40,000 members in Ontario. My colleague next to me is going to present the main body of our presentation to you. His name is Tim Catherwood, and he is a special assistant to the Canadian director of the United Food and Commercial Workers union. We will not be going through our entire brief because other presentations are being done throughout the province by our union. We will instead be concentrating on layoff and closure only.

The United Food and Commercial Workers International Union is pleased to have this opportunity to appear before the standing committee on resources development to present our union's views on reform of the Ontario Labour Relations Act.

The United Food and Commercial Workers International Union, UFCW Canada, is Canada's largest private sector union, representing some 175,000 workers in this country. UFCW members are employed in more than 20 sectors of the economy, including the retail, service, meat packing, food processing, brewing and beverage production and distribution, fishing, general merchandising, health care, shoe and leather and banking industries. UFCW represents more than 70,000 men and women in Ontario.

Our union strongly supports reform of the act and commends the government for its efforts in ensuring that the reform process continues to move forward as expeditiously as possible. The proposed reforms are essential if we are to address the fundamental changes in Ontario's economy that have occurred over the past 15 years since the act was last amended. Those 15 years have been significant in terms of a shift in Ontario's economy and changing workforce. Today's jobs and the jobs of the future are characterized by increasingly complex manufacturing and service-based positions requiring higher skill levels. Combined with an unprecedented influx of women into the labour force and an evolving job structure which is increasingly characterized by part-time jobs, it is without doubt time that Ontario's Labour Relations Act be updated and revamped to reflect today's realities.

The business community is apparently oblivious to these realities and has chosen to be anything but constructive in



its response to the proposed changes. Their tack has been to launch a vitriolic, offensive campaign consisting of misinformation, fearmongering, questionable public opinion polls and more. This campaign has only served to create a negative image of Ontario's economy, not only in Canada but around the world.

The proposed legislation is neither radical nor revolutionary; it is merely attempting to provide basic rights to workers in a modern economy of a democratic society. The reforms are designed to bring the province of Ontario into step with legislation which for the most part already exists in other jurisdictions in Canada.

UFCW Canada believes that the envisaged amendments to the act will create a new labour-management relations environment wherein unions are treated as legitimate representatives of working people and are accepted as partners in the economic and social development of the province. Labour law reform can reduce much of the adversarial nature of labour-management relations and allow unions to operate more constructively and with fewer resources being used to fight for survival. In such an environment it will be possible for labour and management to work together on matters of mutual interest, including training, education, labour adjustment, sectoral issues and economic development. Unions will be able to play a more positive role in society and in building a stronger economy.

Those who oppose labour law reform argue that amendments to the act will favour unions and create an unfavourable environment for business. These assertions are incorrect, reactionary and based on a narrow view of the roles that labour and business can play and must play in order to build a modern, effective, industrialized economy. Progressive and positive steps are urgently needed to address the economic problems facing Ontario and to build a strong, lasting and broadly based economic recovery.

As we look around us, we see many other jurisdictions, notably European countries, where unions are treated as legitimate partners in society. Unions are able to function effectively in areas such as organizing, collective bargaining, training and adjustment and contribute positively to economic and social development. Virtually all citizens in these jurisdictions are free to exercise their democratic right to join a union and to participate in the development of their workplace, company and economic sector. These countries possess some of the strongest economies in the world and are able to adapt to changes effectively and smoothly, without the burden of change falling on any one group, particularly working people.

This is the kind of system that UFCW Canada wants for Ontario. We want a system where working people and the unions that represent them can play a greater and more constructive role in building the province's future. This kind of system is needed to pull our collective strength together to bring about economic recovery and to address the many other challenges we all face.

I'm now going to hand over the chair to my colleague. He'll continue from here.

**Mr Tim Catherwood:** As Barry said, what we would like to do in this particular presentation in this location is focus on the section on adjustment and change in the

workplace. That's on page 14 of the brief that we provided you.

This is following up on the previous comments we had made in February, when we had suggested that while some positive things were happening in terms of labour adjustment, really we could be going further. That's the way we feel about Bill 40.

The amendments in Bill 40 will give unions and workers a voice when significant changes that have direct impact on workers in the workplace are initiated by large employers during a collective agreement. This will, however, be of little interest or benefit to unorganized workers or to workers in smaller workplaces with fewer than 50 persons. I should add that UFCW has an increasingly large number of small workplaces, being a largely service sector or retail sector union.

1530

In addition, while the proposals provide that the employer and trade union should make every reasonable effort to develop an adjustment plan for the layoff or closure, the amendments will not provide the essential regulatory protections needed in the case of all job loss. To us, it's critical that all layoffs and closures begin with adequate advance notice, severance, the assurance of an adjustment committee with the resources it needs, and a guarantee that the union will be able to represent and protect those members who lose their jobs.

We are concerned that instead of developing a comprehensive package that provides workers with the assistance they need and which will advance the adjustment process, the government has chosen to rely primarily on labour-management cooperation, which, while clearly desirable and the optimal approach to effective adjustment, has rarely been used. In fact, it is much more difficult to come up with a few cases where labour-management cooperation has worked than it is to list many, many cases where the employer has failed to accept responsibility and assist with adjustment. Too frequently the adjustment process has been a traumatic and difficult process for laid-off workers. UFCW Canada questions whether we can really rely on the cooperation of employers in all cases. In the absence of basic conditions and provisions, cooperation and equitable adjustment may not be possible.

UFCW Canada makes its comments with regard to adjustment issues from the basis of considerable experience. Not only have we been faced with many layoffs and closures, but UFCW Canada has also developed a national layoff and closure program, which reports to me. This program, which is the first of its kind in Canada, is designed to provide our local unions with the information and trained staff they need to deal with layoffs and closures in a timely and effective way. The UFCW Canada program deals with the full range of matters involved in a layoff or closure, including closure agreements, adjustment committees, needs assessments, unemployment insurance, training, job search, literacy and language assistance and the personal problems members may face.

UFCW Canada's program is designed so that it can be implemented through a joint effort of the employer and the local union. In fact, we recognize that the adjustment

process will be much more effective if it can be done cooperatively.

Unfortunately, very few employers are prepared to work with unions and recognize the key role the union must play in making adjustment work well. The more normal pattern of layoff or closure involves last-second notice by the employer, or notice less than statutory requirement plus pay in lieu of notice, minimum severance and perhaps an offer of a limited amount of money for a job search seminar or an adjustment committee. Most employers are more interested in getting the layoff or closure over with and being rid of the situation. They leave the real problems to be addressed by the union, the government and, of course, the workers themselves.

Clearly, we wish this were not the case. In fact, our program is designed to change the pattern of adjustment. We want to prepare our local unions and give them the tools they need to deal with layoffs and closures when they occur. In addition, we are encouraging locals to negotiate provisions for advance notice, severance, adjustment committees, training, literacy courses and funding into their collective agreements. In each case of layoff or closure, we encourage locals to try to secure the cooperation of the employer. In our view, the adjustment process will only be improved and be effective when employers accept responsibility for their decisions and actions and commit to work with unions and government to ensure workers get the assistance they need. Until this is done, workers and unions will naturally and quite rightly be resistant to change.

In the Minister of Labour's proposals, reference is made to a work organization and adjustment service. UFCW Canada has no particular difficulty with the idea of such a service. Indeed, we believe that the service could provide employers and unions with valuable information and facilitate greater awareness of the issues involved in managing change and adjustment. The service could work to assist labour and management to cooperate more effectively. UFCW Canada would be willing to look seriously at participating in any advisory group formed with regard to such a service. In addition, we think there's merit in the idea of the service working closely with the Ontario Training and Adjustment Board when it's formed.

UFCW Canada's major concern with the government's proposals relate to regulation of the adjustment process. We believe the government should be dealing with the problems that are facing laid-off workers each and every day by providing the regulatory framework required for effective adjustment. In addition, it's essential that employees in workplaces with fewer than 50 workers be protected and offered the assistance they need.

We agree that it's important that labour, business and government work to prepare for and respond to changes in the workplace, sectorally and in the economy more generally. This should not, however, be used as a reason not to provide an adequate regulatory framework for adjustment. Rather, this should be a strong reason in favour of there being new rules to guide the adjustment process. These rules should outline basic minimum conditions required to

make the adjustment process more effective, and we list five things that we think are basic.

The first is mandatory notice. In virtually all cases, workers should receive advance notice of layoffs or closures, whether it's a full or a partial closure. It's important that the notice be done in terms of time, not pay in lieu of; I can come back later, if you'd like, and give you examples. Notice is essential for workers, including those in small workplaces as well as large, to enable the process of adjustment to commence. It gives you the opportunity to allow people to find new jobs, to take training or literacy courses and to deal with all the other problems that arise. Optimally, a year of advance notice works the best.

The second issue is severance pay. To us, employees in virtually all workplaces, small and large, should receive a basic level of severance. Of course, as all of you probably know, the biggest problem with severance right now is that the federal government changed the rules and treated it as earnings, so it gets sort of robbed away from them, and that needs to be changed.

In terms of adjustment committees, we don't believe the formation of adjustment committees can be just left to the discretion of the employer. While we agree that committees work better if they're implemented and operate cooperatively, the reality is that many employers are not interested in committees and either refuse to participate or make next to no effort, and this cripples the committee.

Employers should be encouraged to form committees and committees should be joint efforts, where possible. But where the employer does not come on board, it must be compelled to participate in an effective manner.

In addition, it's important that the role the union can play in the adjustment committees needs to be recognized and supported. Too frequently, the employer and in fact some government people try to minimize the union's involvement, thus restricting the effectiveness of the committee on behalf of affected workers.

In terms of resources, the employer has a responsibility to support the adjustment process. After all, they made the decisions. In all cases, the employer should be required to provide funds and other resources—things like staff, office space and equipment, time off, things it has readily at its disposal—to support the work of the adjustment committee and other activities in areas such as job search, retraining, needs assessments, counselling and so on. Efforts in this regard need to be coordinated with government and with labour-based programs. For example, the office of labour adjustment, which has been set up, is very good, and it needs to be coordinated with that.

One thing we really like in the proposals in Bill 40 is that there is now a statutory duty to bargain a layoff or closure agreement. That's absolutely essential. You have to be able to get that kind of stuff done and get it out of the way.

In wrapping up that section, let me say that we do not accept the argument that a regulatory framework built on these five essential points would be unfair to employers. The reality is that employers must accept responsibility for their decisions and actions, and workers cannot be left unprotected and unassisted except for the efforts of their



union or a few government services. Employers need to be encouraged to act responsibly and cooperatively in cases of layoff or closure, but where they fail to do so, a regulatory framework must apply to make compliance mandatory.

In conclusion of our presentation, we applaud what the government, and the Minister of Labour in particular, has done. It's a substantial reform and it's very constructive, and we believe the time has come for labour law reform.

The reform of the act, as proposed by the minister and our union, will serve to provide every person with the right to choose whether or not to join a trade union. Many of the proposals put forward by the minister and in our presentation have been demonstrated as workable, effective and fair as they've been applied in other jurisdictions in Canada. These proposals will not be onerous. Rather, the proposals represent an opportunity for Ontario to catch up with other jurisdictions and move ahead in our quest for a fairer society and a stronger economy.

Reform will go a long way towards creating the environment needed to foster greater civility in labour-management relations and more cooperation in the workplace at both the sectoral and provincial levels, and it will enhance the broader and stronger partnerships required to address the important economic and social challenges facing all Ontarians.

We believe that better and more progressive labour laws are essential if we are to have a society and an economy that can adapt effectively to change and can compete with other advanced nations. In this effort, our union is prepared to work with the government of Ontario and other groups to develop and implement equitable and workable labour legislation that will serve to benefit all the people in Ontario.

1540

**Mr Hayes:** Thank you very much for your presentation. It was very informative. We've had some people in here who have complained about this government blaming things on the federal government and the federal economic policies. We've used things like free trade, the inflated Canadian dollar, the interest rates and the GST, and I guess the opposition figures it's really unfair for us to do that. These same people are saying that with Bill 40 we're going to lose so many hundreds of thousands of jobs, which I totally don't agree with or believe. First of all, how do these other factors affect the people you could potentially be representing?

**Mr Catherwood:** As a union, across the country—and that's not just in Ontario—I'd say we've lost 12,000 to 14,000 jobs in the last couple of years, and this can be traced back to a lot of things. Some jobs come and go in economies, and that's always been the way, but most of them can be traced to things like the overvalued Canadian dollar; that's a decision made by the federal government.

They can be traced to the free trade agreement, which changed the rules under which people had to operate. And it wasn't just change in the rules; it was the fact that we changed the rules without doing the things we said we were going to do to allow us to adjust to that change. I mean, we never got the upside adjustment programs that

business needed, and you'll hear business leaders now say this to you. Indeed, in our discussions with leaders in many sectors where we represent—because we do sit down with employers and try to talk to them about sectoral strategies to move forward—they're now telling us that this was a very important thing that was done, a mistake. Of course, now we've got a North American free trade agreement, and we'll have to see how that works out.

There's no question of what the interest rates did. You don't have to be a genius or an economist—I don't know that they're the same, but you don't have to be either of those to understand what interest rates did.

You can't point the finger solely at the federal government, but it came down with a whole range of policies in the 1989-91 era which combined to cause enormous problems which affected our membership in food processing, in brewing, in retail and service. Brad Ward knows well the problems that have been created for us because of cross-border shopping and the efforts where we've sat down with employers and tried to work our way out of that. So I think the federal government's policies were to blame. If we were just saying that from Ontario, maybe it would be partisan, but people in BC, Alberta, Saskatchewan and right across the country say it.

**The Chair:** Thank you. Go ahead, Mr Offer.

**Mr Offer:** Thank you for your presentation. Unfortunately, I'm going to have to read this in some detail, especially with respect to the adjustment proposals you have made.

I imagine a number of your members are or could be classified in the part-time sector. Under Bill 40, there is a provision, as you well know, that a full-time sector can take over a part-time unit even if the part-time unit doesn't wish to be taken over. That's permissible under Bill 40. I know you are strong advocates of majority rule and things of this nature. Would you support an amendment to the legislation that would permit the combination of a part-time, full-time unit only when there is a majority in each unit that wishes that change?

**Mr Bailly:** I'd like to respond to that. No, we support the combination of a part-time and a full-time bargaining unit because they have a community of interest. I can give you a good example with a food store. You'll find that perhaps 50% to 60% of the unit is part-time. In organizing programs, we find we have no problem signing up cards in the full-time units. The part-time units, because of their nature, in some cases turn over so fast that they have an almost 100% turnover in a three-month period. It's very difficult to get around and see part-time.

We've got a number of cases; in fact, I can cite you a case right now in Kingston, Ontario, where we have the full-time bargaining unit signed up but we don't have the part-time, and we've been working on the part-time for the last six months. We've now had to go and sign up new cards, because the cards are only good for six months, so we're fully in favour of having a combination of the two units.

**Mr Sterling:** On page 17 of your brief you say, in regard to severance pay, "This severance should belong to

the worker and not be confused with 'earnings,' as is currently done under the federal government's unconscionable UIC regulations." Do you think that statement's fair?

**Mr Catherwood:** Oh, it's more than fair.

**Mr Sterling:** Even though the minister of Labour was fully aware of what he was doing, and the regulation was there before the severance pay legislation came here in Ontario? I asked him a question in the House. I said, "Minister, why are you handing over \$27 million to the federal UIC fund by bringing in this legislation?" Why should the federal government take blame when in fact the Minister of Labour of this province knew full well what he was walking into, knew he was denying workers this money? Then you're blaming the federal government. How can you do that?

**Mr Catherwood:** I can do it very easily.

**Mr Sterling:** Why?

**Mr Catherwood:** Because the change was made in 1984, and I recall being at a meeting—

**Mr Sterling:** But the minister knew what he was doing.

**Mr Catherwood:** Let me finish the story. I was at a meeting on December 12, 1984, with Flora MacDonald, who was then the Minister of Employment and Immigration. We asked her about UI, and she said that no changes would be made. Eight days later she brought in a change that if you lose your job—

**Mr Sterling:** I know exactly what it does, and I explained it—

**Mr Catherwood:** I don't understand what that has to do with Bob Mackenzie.

**Mr Sterling:** Because he brought in his legislation after, which denies the people that severance pay when a company goes down the tubes.

**Mr Catherwood:** I don't know. That's a long way from 1984 to 1992.

**Mr Sterling:** Bob Mackenzie knew what he was walking into. He gave the federal government, the UIC,

\$27 million to \$30 million a year because of the fact that he turned a blind eye to federal regulation under the UIC plan.

**Mr Catherwood:** Mr Sterling, maybe you should come with me to one of our plants when it closes and listen to me try to explain to people what this does to them.

**Mr Sterling:** Tell them that Bob Mackenzie didn't know what he was doing.

**Mr Catherwood:** But it isn't Bob Mackenzie.

**The Chair:** All that having been said, I say to you, gentlemen, Mr Baily and Mr Catherwood, thank you kindly for your participation in this process and for your attendance here this afternoon on behalf of United Food and Commercial Workers International Union. You represent a significant constituency which has a significant interest in this legislation, and you've made a valuable contribution to the process.

**Mr Catherwood:** We'd like to thank the Chair for his continued support for us in all the causes that we undertake.

**The Chair:** I'm doing my best.

**Mr Catherwood:** You do indeed. To the others, we appreciated the opportunity to be here. Mr Offer, if you would like at any time to discuss with us our closure program, my staff and I would be more than happy to sit down with you. We're in Toronto, not far from you when you go back. I'll give you my card and we could do that.

**Mr Offer:** I appreciate that.

**The Chair:** Thank you to the committee members for their cooperation during the last two days, to the staff people for their outstanding skill and talent, to the people who participated in these hearings and to observers who came to witness these. We trust that Mr McGuinty, Mr Sterling and Ms O'Neill will express our gratitude to their constituents in Ottawa for their hospitality.

The committee recessed at 1549.



## EVENING SITTING

The committee resumed at 1906 in the Howard Johnson Confederation Place Hotel, Kingston.

**The Chair:** Good evening. My apologies to everybody here. We were supposed to start at 6:30, but the first bus that was to deliver us from Ottawa to Kingston had some problems and was changed for a second bus; that took up a little time and it meant we were late. We apologize; we know people had to wait and we regret the inconvenience. We will be dealing with every group that was scheduled to be dealt with this evening, and everybody will have their full allotment of time.

## QUINTE LABOUR COUNCIL

**The Chair:** The first participant is the Quinte Labour Council, if those people would please come forward, have a seat, give us their names and their titles, if any. Tell us what you will, but please try to save the last 15 minutes of the half-hour for exchanges and questions and dialogue. Please go ahead. The clerk will take care of any shortfall in numbers of written submissions available. Those of course will form part of the record by virtue of being made an exhibit.

**Mr Doug Sword:** My name is Doug Sword, and I'm currently president of the Quinte Labour Council, which includes the counties of Hastings and Prince Edward; the main cities within our jurisdiction would be the cities of Belleville and Trenton. I would ask my brother and sister union members to introduce themselves to the committee.

**Ms Barbara Dolan:** I'm Barbara Dolan, from the Communications and Electrical Workers of Canada, Local 30. I'm the vice-president.

**Mr Rick Rose:** My name is Rick Rose. I'm president and chairperson of CAW, Local 1530, Northern Telecom in Belleville.

**Mr Sword:** As president of the Quinte Labour Council, I approach the hearings by the standing committee on resources development with a high degree of optimism. I can only say to you that we must look on the proposed amendments to the Ontario Labour Relations Act in a most positive manner.

On January 28 of this year, the Quinte Labour Council presented our views regarding Bill 40, the government's proposed amendments to the Ontario Labour Relations Act. That was upon the occasion of the appearance of the committee in Kingston, Ontario, chaired by the Minister of Labour, Mr Mackenzie. Following second reading in the Legislature, we are secure in the knowledge that the process is fair and gives an opportunity for many interests to present a variety of opinions regarding workers' rights to the members of the Ontario Legislature's resources development committee.

The Quinte Labour Council is comprised of affiliate local unions, some 40 in number, representing approximately 8,000 public and private sector workers, as mandated by the Canadian Labour Congress and in turn the Ontario Federation of Labour. We are in fact the largest organization, outside of the religious community, in the

Quinte area. We have represented the interests of workers in the two-county area since the merger of the Trenton and District Labour Council and the Belleville and District Labour Council in May 1970. Our members are proudly productive, responsible and fully cognizant of the realities facing employers today.

We are aware, as participants for workers' rights since the late 1950s, that previous governments have enacted some reforms, but Bill 40 is seen by the Quinte Labour Council as a coming of age in labour law reform for the province of Ontario.

Undoubtedly, appearing before you today and tomorrow in Kingston will be representatives of the business community who will perhaps attempt to sow the seeds of fear that 295,000 jobs will be lost in Ontario should Bill 40 become law. Let us cite the following and leave it to the committee to judge the extent of sincerity, if any, in the concerns voiced by the business sector.

In the 1980s, the Quinte Labour Council expressed concern about the number of plant closures and what were commonly referred to, at that time, as runaway industries. As a result of the impact on our community and others in Ontario, we advocated that some of the social costs be borne by the departing industry and not remain a burden on the community at large. Notwithstanding the fact that the labour council resolution was endorsed by a city council special committee, its passage was delayed to allow the local business community an opportunity to comment.

Suffice to say, the proposed resolution was quietly put to rest by a motion to receive. In a letter to city council by the business community, it was stated: "The directors of the chamber believe that businesses operating in the province of Ontario are justified in closing plants and offices to maximize profits. Indeed, in the opinion of the directors, businesses have no alternative but to do so if they are to remain competitive in the world marketplace." In our opinion, this demonstrates a total lack of concern for one job, 1,000 jobs or perhaps, as has been voiced by the opposition parties in the Legislature, 295,000 jobs.

We would like to put into historical context, with a local perspective, the question of replacement workers, alias scabs, and their impact on industrial conflict. The council of the city attended a meeting convened by the labour council, and it was demonstrated on film that ugly picket-line confrontations can and do arise in certain collective bargaining situations. In a great majority of cases, the violence is precipitated by solicited third-party interference.

Reflecting the concerns of the Quinte Labour Council, the council of the corporation of the city of Belleville passed a resolution requesting the government of Ontario to provide that "no employer shall use or permit the use of professional strikebreakers." Professional strikebreakers were defined in part as persons whose primary object, in the opinion of the labour relations board, is to prevent, interfere with or break up a legal strike. The resolution goes on

to say that the intervention of third parties often leads to a breach of the public peace and the aggravation of the dispute. It is interesting to note that the mayor of the day thought that the police should not get involved in what are legal strikes.

We would like to quote a member of city council of the day who would not cross a picket line during a legal strike. The legal strike was at the city hall, when the city workers removed their services. He said: "I can't see hiring these temporary people during a strike. It doesn't solve anything. It makes for hard feelings and I don't want to get involved in it"—to which we, as the labour council, say amen.

The report of the labour representatives to the labour law reform committee recognizes that the intense adversarial hostility between emerging bargaining units and the employers must become a memory of a less enlightened and business-dominated environment. The Canadian Labour Force Development Board and in turn the Ontario Training and Adjustment Board are attempting to create a climate of cooperation between labour and business in the province. Without a legal acceptance which recognizes and accepts the legitimate role of labour unions and the right of workers to organize, how can we look forward to a harmonious and productive working relationship on local boards under OTAB?

Again, we are reminded of statements made by Ted Ball, the president of PoliCorp. On May 30, 1991, to the annual general meeting of the Canadian Manufacturers' Association, he said, "If government and labour don't begin to work together to develop and implement a coherent industrial strategy for Ontario, then our future prosperity and quality of life could be destroyed." Further along, he said, "You must now become much more proactive in forging a genuine partnership with both government and labour."

It is obvious to us that both Ball and Wilson—that's Gord Wilson, of course, president of the Ontario Federation of Labour—who represent obviously divergent interest groups, have given Ontario's serious economic problems the attention they deserve and appear to say, "Let's do it together."

We'd also like to address the right to organize. In the past, domestics, agricultural, horticultural and professional workers have all been excluded, but in specific terms the proposed amendments should and will remove these exclusions.

Domestics: It is understood that if domestics are included in the amendments to the act, it must be recognized that these long-neglected workers are employed in separate workplaces and for separate employers, necessitating, in our view, an amendment to subsection 6(1) of the act so that individual workers can in fact be represented, as can employers, and can bargain for their own particular interests.

To digress from our presentation for a moment, I think we're all aware from reports in the Toronto newspapers of the past of some of the difficulties faced by domestic workers, the trials and difficulties they have faced working for individual employers, with regard to conditions of employment, long hours and poor pay, and the list goes on and on.

Agricultural workers: We understand that all the other Canadian provinces, with the exception of Alberta, allow, in varying degrees, agricultural workers to organize. We further understand that discussions are ongoing between the interest groups, including government. Therefore, we support initiatives bringing Ontario's workers in line with those of Canada's more enlightened provinces.

Professionals: We support the proposed amendments allowing, with sufficient support, separate bargaining units becoming part of a broader bargaining unit.

Security guards: Ontario remains the only province where security guards cannot freely choose to join a union of their choice. Where a conflict of interest appears to exist in an employer-employee relationship, such as monitoring other employees, we can foresee no difficulty if the board determines that she or he can be certified in a separate bargaining unit.

Organizing and certification: We have always been concerned that employees need access to a fast track for the resolution of complaints that employers are interfering with the attainment of collective bargaining rights, a procedure to expedite hearings seeking redress when an employee has been disciplined in any manner during organizing activities. The Quinte Labour Council sees this as a deterrent to unfair labour practices by any and all anti-union employers.

Access to third-party property: We regard the amendment allowing access to private property for the purposes of organizing as a moderate step forward which, at the same time, gives recognition to proprietorship and the legitimate concern of a business. Total access to non-productive areas, I'm sure we would agree, causes no concern when the access is to such areas as parking lots and cafeterias.

Membership fees: While eliminating the \$1 membership fee will in all probability make it easier to establish membership before the board, it will also eliminate the ability of the employer to frustrate the legitimate aspirations of workers. Once a worker's card has been signed, unless there is clear evidence of unwarranted interference, such as forgery, there should be no further reason for scrutiny by the board.

I would like to address the fact that we have certain allies and alliances. In a statement dated May 1, 1986, entitled Supporting Labour Unions, the episcopal commission for social affairs, Canadian Conference of Catholic Bishops, wrote, "During these times of high unemployment, for example, there is a greater tendency for some employers to turn their backs on organized labour and take advantage of pools of cheap labour comprised of jobless people and the working poor." This trend is further reinforced by the disturbing phenomenon of contracting out work to non-unionized labour, increased efforts to reduce collective bargaining rights, recent court challenges to labour unions and renewed calls for the adoption of numerous anti-union legislative measures in this country.

The Quinte Labour Council has included the foregoing in our brief to illustrate the importance of Bill 40 to the workers of this province. We will demonstrate that the current legislation favours unscrupulous employers and provides an easy source of income for their legal advisers.



We want to use, as an example, what is currently occurring and has occurred in the city of Trenton. There has been a labour dispute, and to demonstrate the existing inequity, we will focus on the current labour dispute at Vagden Mills in Trenton, Ontario. Local 1764, Amalgamated Clothing and Textile Workers Union, went on strike on August 10.

Negotiations broke down on Friday, June 5. The key issues are respect, dignity and wages. What fine issues to hit the bricks, in common terminology, respect and dignity being two thirds of the reason for those people going out on the picket line. The following letter from Vagden, dated August 13—you'll note that it's only three days since the people went out on strike—was received by the mostly female employees, which we will read into the record. I want to ask my sister if she would kindly read the letter.

1920

**Ms Dolan:** It's a "Dear John" letter: "On Wednesday, August 19, the labour board will be holding a secret ballot vote to give all union employees the opportunity to vote yes to the company's final offer.

"The secret ballot vote will be held at the Loyalist Room at the Trenton Ramada Inn from 10 until 12:30. The outcome of this vote will be determined by the majority of ballots cast, so you must vote if you want a say in your and Vagden's future.

"Remember, this is a secret ballot. The vote is supervised by the labour board, so neither the union nor anyone else will know how you voted. You have to vote 'yes' if you want any job security with Vagden.

"Don't be blackmailed by the union's threats that can take away your seniority rights or rights to work, because the union can do no such thing. If the strike continues because you do not vote 'yes,' and should Vagden close down, Vagden will close down because of the strike. Such a closure will mean no job, and because you are on strike, there will be no severance pay and no UIC. You will join the 3,000 other Trentonians looking for a job.

"During these negotiations, we have consistently told the union that we have no money for an increase this year. We even opened up our books and allowed a union accountant to verify our financial position. The union accountant agreed with us.

"Vagden pays the highest wages of any sock plant in Canada. Surely a job is better than no job. Your last take-home pay was"—and it's been blacked out—"and you had a benefit plan. If you continue with the strike, you will have no pay and no benefit plan.

"I enclose a copy of the company's final offer. Review it carefully. Wednesday's ballot will say, 'Do you accept the employer's final offer to your trade union?' Vote 'yes.'"

**Mr Sword:** Then, appearing in the Trentonian on Monday, August 17—and I have a copy here of the ad; that's some four days following the letter. The ad reads: "Vagden Mills Ltd requires production workers. Transportation arranged. Submit application in confidence to Vagden Mills Ltd, Trenton, Ontario."

What I'm saying to you is that all of the pieces were then in place: replacement workers, scabs—they were being bused in through the picket lines—and Toronto-based security guards—a classic case of union-busting. It is our wish, if nothing else get passed in Bill 40, that the legislation will put an end to the behaviour of unscrupulous employers and those people who seem to hover around the whole affair like vultures, the unscrupulous lawyers who seem to profit from such things—all of this to deny workers a modicum of respect and dignity. The Ontario Labour Relations Act must be amended, and the workers of this province, both organized and unorganized, are looking to this committee to level the playing field and eliminate the arena where only the lawyer is the winner.

There was certainly the opportunity for the employer to look to the labour movement, not to hold the wages down in that certain instance, but the opportunity was there for an employer, who manufactures socks of varying colours, sizes and styles, to go to the union movement and say: "We are manufacturing a Canadian product. Let's publicize that this product is made in Canada. Let's encourage people to buy it." Then, if people will buy a Canadian-made product, the opportunity would be there to increase the wages of the mostly female employees.

Finally, I must say the Quinte Labour Council extends our sincere thanks to the resources development committee and we trust that the concerns of workers will be reflected in the final writing of the legislation.

Further, I might add that never in my memory have I seen more opportunity presented to the workers of this province to appear before committees of a Legislature. I could list committees our labour council has appeared before with regard to the Municipal Act, the health and safety act, local training adjustment boards and so on. On behalf of the Quinte Labour Council, I would like to commend the government for providing the opportunity for the workers of Ontario to do this.

**The Chair:** Thank you. We have two minutes per caucus.

**Mr Randy R. Hope (Chatham-Kent):** Mr Sword, thank you for your presentation. You made reference to a letter and talked about some 3,000 employees, or people, who are currently looking for jobs, and when you make mention that most of them are female, I imagine some of them would be spouses of the 3,000 people.

As you are the representative of a labour council, I guess my question would be, how would the workers feel after receiving such a letter in their homes—I imagine it was sent to their homes—to talk about with their family? I'm sure through the labour council it must have been reported on, the traumatic feelings of individuals that were brought forward.

**Mr Sword:** I think the result of such a letter, which they referred to as being threatening and intimidating, was to cause 15 workers to cross the picket line. One would say that was the intent of the employer. One would also suppose that the long-term intent of the employer is to go much beyond settling a strike with terms and conditions of employment less than the workers may have expected. It is

my understanding, having spoken to the president of that local, that some of the terms they're going back under may be regarded, at least by myself, as a sort of punishment.

I'll give you a couple of examples. Some of the female workers had hours of employment which allowed them, as parents, to be with their children outside of working hours. Their hours of work, I have been told, have been changed, making it very, very difficult for those people to work a midnight shift and be with their children. As a consequence, the strong possibility exists that those people will have to give up their employment.

The other thing that's been given to me by the president of the local, and I have no reason to doubt what she has told me, is that she as a worker no longer has the same job to go back to, working on a machine where, through piecework, she was able to accumulate a fair weekly wage. She has now been put on a machine that will give her less productivity and, as a consequence, less weekly wage. So the people are going back under a condition of punishment.

1930

We have had decertifications in Belleville. We have just had a recent decertification where the same lawyer who is working on behalf of the employer or the employees—one may wonder which one—seeking decertification also across the hallway was bargaining on behalf of the employer for Vagden Mills, the one I was just talking about. He was scooting from one room where the meeting was being conducted to the other room across the hallway. He was double-dipping, I suppose, getting two stipends for one evening's work.

**The Chair:** We know exactly what double-dipping means, sir.

**Mr Sword:** We realize you realize.

**Mr Offer:** Thank you for your presentation. I surely do appreciate the areas that you've addressed. On page 3 you've spoken about the need for business and labour to work together, and I don't think there's anybody who would disagree with you; surely not myself. The difficulty we have here is that the bill, certainly through our hearings and the process that's being used—and you will know that the government has sort of put us in a lockstep. This bill is going to be law by Thanksgiving, the result of which has caused an increasing polarity of interests.

One of the things the business groups—not only, but primarily the business groups—have come to the committee and said was:

"Listen, we've done our own studies. The government hasn't done any studies as to what the bill may mean in the area of investment and the area of job creation. We think to deal with some of our concerns the government should conduct a sector-by-sector economic analysis as to what the bill means, what it's going to mean to the workers and investment in the province."

I think we would all agree, for instance, that the federal government would have to conduct some type of impact study on the NAFTA deal. I'm sure you would agree with that. If we do agree with that, isn't it right that the government should conduct—and do you agree that the government should conduct—some type of analysis, sector by

sector, as to what these provisions will mean to job creation, to investment for the men and women of this province?

**Mr Sword:** While I digest what you've said, Mr Offer, it's obvious to me that you've had discussions with the business community. All we're doing is inviting the business community to have some meaningful discussions with organized labour in this province. We don't need to have discussions through a third party.

We have members on the local advisory committee under the almost defunct Canadian Jobs Strategy under the federal Tory government. We have asked the business community at various times, as represented by members of Parliament and others, to give us additional seats where we can have input and express opinions, but we've been ignored. I might say, sir, those people we've approached hold down Liberal ridings.

Our hand is extended. If you're refused any other place in this province, kindly come to Quinte riding, kindly ask the Quinte Labour Council to participate with you; I'm quite sure we will. We will have our own opinion, and we will express our opinion on behalf of working people in the province of Ontario. We won't use a survey done by the business community. I would suggest, sir, that you haven't had a job impact study done by the Liberal Party; you're accepting one done by someone else.

**Mr Sterling:** Quite frankly, my question was the same as Mr Offer's. We're willing to look at all kinds of studies, whether they be by business groups or labour groups, but when a government asks for a study and a reputable firm like the one that did the study for the business group, Ernst and Young, one of the most reputable consulting firms in Ontario and in Canada, does it, we assume that its reputation means more than receiving a paycheque from any one client, be it a business group or a labour group.

We have continually asked the government, "Doesn't it make sense, before you bring in a major piece of legislation, to find out what its impact is going to be on jobs and the economy of Ontario?" Do you not agree that the government, if it continues to discredit the Ernst and Young study which you are discrediting in your brief, should at least ask somebody to undertake a study as to the impact of this piece of legislation before it is passed? You don't want to lose 295,000 jobs, nor does anybody sitting in this room. If in fact they ask somebody to do that who says, "No, it's not going to lose 295,000 jobs; it's going to do something else," that's fine and dandy.

Most governments that I've been aware of over the 15 years I've been elected have always asked for impact studies with regard to legislation. We're being told no, so we think that in fact there is going to be an impact with regard to the economy. What is our suspicion, if we say, "Well, look, ask for the study, share it with the committee and share it with members of the Legislature"? Don't you agree that this should be done?

**The Chair:** Do you want to respond to that now?

**Mr Sword:** Absolutely. With regard to impact studies, Mr Sterling, I think we should broaden our minds, broaden our scope and look at other things. We should look at



impact studies with the North American free trade agreement.

**Mr Sterling:** No, we're talking about this legislation.

**The Chair:** Go ahead, Mr Sword.

**Mr Sword:** You're talking about impact studies on workers in this province. Let's talk about impact studies, not on this particular piece of legislation, but on those things that will impact workers in this province. If you want me to direct myself to the same question as Mr Offer—and I'm not quite sure whether he's the same political party—it's my understanding that an impact study has been done by Mr Noah Meltz of the University of Toronto. Why wouldn't you accept the results of his study? He figures that it will be a more positive outcome of the amendments to the Ontario Labour Relations Act.

I personally can't understand why people are so opposed to people having a collective voice in a workplace. You're like the member for Quinte, who, three or four nights ago at a public forum, seemed to ride two horses. He rode down both sides of the fence. If one were to believe the statements made, he comes out a winner on both sides, on behalf of the workers and on behalf of the employers, and he can't do it.

**The Chair:** Thank you. I've got to say that we've used up our time, but I want to say thank you to Barbara Dolan, Douglas Sword and Rick Rose for appearing here this evening on behalf of the Quinte Labour Council. You've made a meaningful contribution to this process and obviously you've provoked response by members of the committee. We're grateful to you for participating.

You're welcome to stay. We're going to be here tomorrow, and of course, you and any other participant are entitled to get copies of your submission by way of a Hansard transcript, or anybody else's, by writing your own MPP or the clerk of this committee. Thank you, people.

**Mr Sword:** Thank you.

1940

BELLEVILLE AND DISTRICT  
CHAMBER OF COMMERCE

TRENTON CHAMBER OF COMMERCE

**The Chair:** The next participants are the Belleville and District Chamber of Commerce and the Trenton Chamber of Commerce. If those people would please come forward and have a seat. Their written materials are being distributed. People have got a copy of them. Please proceed with your submissions. Tell us who you are and your titles, if any.

**Mr Brad Aulthouse:** Good evening and thank you for the opportunity to appear here. My name is Brad Aulthouse. I'm the president of the Belleville and District Chamber of Commerce. With me is Deryk McGrath. He's a member of the Belleville chamber. Our time is being split with the Trenton Chamber of Commerce, and representing it is Mr Paul Tripp. We'll make the first presentation, followed by the Trenton chamber, and the two are separate presentations made in the same time.

The Belleville and District Chamber of Commerce has been the representative voice of business in Belleville

since 1864. Currently, membership numbers over 500 companies in all categories, including manufacturing, retail, professional, financial and service industries. Our statement of object is "to represent business and its concerns relative to the promotion and development of trade and commerce in Belleville and district."

During the January 28, 1992, presentation to the Ministry of Labour consultation by the Belleville and District Chamber of Commerce, I outlined that a survey of our membership resulted in 64 of 70 respondents stating that they strongly disagreed with the proposals.

The essence of our objection related to our belief that the proposals simply build upon outdated principles of conflict, that is, big labour versus big employer. We had hoped that labour reform would involve an imaginative and forward-looking re-examination of modern employer and employee needs and desires in order to be competitive in a world economy, with participation from all members of our economy, including small business and non-unionized employees.

What we are presented with in the guise of improving labour relations, however, takes away from business autonomy and the rights of individual employees in such areas as the right to a secret vote, the right to cross a picket line, the right to petition, and broadens intervention of labour boards. In fact, the proposals seek only to strengthen the labour union movement without statistical analysis or impact studies to determine the effect on Ontario business.

Since that meeting last January, we have been actively involved in further examination of the issues related to labour reform. At our February 19, 1992, breakfast meeting we hosted Mr Ken Signoretti, executive vice-president of the Ontario Federation of Labour, as our guest speaker. When questioned about the loss of competitiveness the implementation of the reforms would cause, we were surprised to hear, in his words, "Business needs to redefine what is meant by competition."

On August 20, 1992, we participated in a public panel discussion sponsored by the Quinte Labour Council, along with Hugh O'Neil, MPP, Quinte, and Gord Wilson, president of the Ontario Federation of Labour. The discussion was both lively and educational. However, we were concerned to hear Mr Wilson state, "These proposals have nothing to do with job creation," and the recession in Ontario is merely a "bad attitude" in the minds of Ontario business.

In the Quinte region we have lost approximately 1,400 jobs in less than a year. Many of our members in the business community are hurting deeply. We are concerned about the ability of business to continue in today's environment. The implementation of these labour reform proposals will undoubtedly add great uncertainty to an already unstable situation. The Belleville and District Chamber of Commerce firmly believes that the time for drastic change to the playing field for Ontario business is not now. We firmly believe that there are more important issues at hand. A commitment to business revitalization will create jobs and return the Quinte area and the province of Ontario to economic health.

There's a further important issue about which I've heard nothing publicly, but was recently shocked to encounter as I prepared for this evening's meeting. That issue is the fear of intimidation. Several of our members have been extremely active in letting us know of their opposition to Bill 40 and their support of the chamber's efforts on their behalf. I thought it would be useful for this committee to hear directly the comments of a few of those members. When approached, however, they told me they feel the bill is essentially guaranteed to become law and they fear reprisals from unions for being publicly outspoken against the proposals.

I'm stating exactly what was heard by me from our members. In fact, one of those members who had previously agreed to participate called me at 2 o'clock this afternoon stating that the partners in the business felt it would be unwise to participate. He specifically stated that they have an excellent working relationship with their employees and would prefer not to attract the attention of a union.

This is a very dangerous situation. Many business owners and managers are currently frightened by existing economic uncertainty. They appear to be equally afraid of unions and, sadly, the provincial government. Our response to the question of labour relations amendments in 1992: Please, not now.

To provide the committee with direct insight into the thoughts of Quinte area business managers, Deryk McGrath of Seaway Answering Service has agreed to share his views regarding the impact on his business of the proposed changes. The views of Mr McGrath are, I believe, in large part a fair representation of those of many members of the Belleville and District Chamber of Commerce.

**Mr Deryk McGrath:** First, I want to apologize for not having enough copies. I didn't know I would be facing more than a baseball team, with all the relief pitchers, but I only brought a few and I am pinch-hitting for the poor chap who did decide, through the partners in his business, that he didn't want to come.

As stated, my name is Deryk McGrath. I moved to Ontario in 1965, from the province of Nova Scotia, to go to university, saw some great opportunities after I was through and decided to stay here. Besides working in BC for a couple of summers on the Alaska Highway, I had quite an opportunity in the 1960s to see very strong labour unions working in Hudson Hope at the W.A.C. Bennett dam and before coming to live in Belleville I did some travelling in Europe and saw some socialist governments in countries like Bulgaria, Romania, Hungary, Czechoslovakia, East Germany, a few other ones. As a poor boy from Nova Scotia, I saw a little bit before I decided to settle in Ontario.

In 1975, when I opened my business, I certainly didn't have any qualms about making that decision. It certainly was the place, I think, to be in the world. Many times in Europe, when you spoke English, people thought you were American. I spoke enough German to say, "Ich bin kanadisch," and all of a sudden—it means, "I am a Canadian"—it changed the whole atmosphere. Ontario was the

place to be. It was a very dynamic place, there were a lot of things happening.

With Bill 40, one of the things I would like to state is, if I was doing the same thing, approximately 25 years later when I came to university, I don't know if I would make the same decision after I'd finished.

I wish to state that I'm not an anti-unionist, but I must say I have a very pro business viewpoint. My personal feeling is that any member of society—and that's male, female, whatever—should have the right to join a union and they should also have the right to go on strike. I think that's a fundamental right, as right as voting.

An employer, a business person, should also have the right to stay open during a strike. One of the things is that small business people especially borrow money from the bank. They have to pay their loans every month, they have to pay their rent, they have to pay the hydro, all of those things.

If you were prevented from bringing in revenue, you don't have to be a rocket scientist to know that when revenues dip below expenditures you're in trouble, except when you're the government and you can raise taxes, but not many of us have that opportunity. Being in business, we have to live within our means.

I feel that during a strike businesses have to have the opportunity to use supervisory non-bargaining unit employees and I guess strikebreakers or scabs. I certainly don't believe in professional security guards and maybe some other things, but you have to do what's required to get the job done and getting the job done is staying open when you're in an emergency-type situation.

1950

In our communications company, if our system's down by an hour or two hours, we have dual redundant systems to keep it going. We have computers that bring back error messages. I get up in the middle of the night to go out and change modules when they're down, and if we couldn't do that and get into our sites and do stuff, we may as well not be in business, and the amount of money we pay to the provincial government in the employee health tax and corporate income tax and to the federal government in CPP and UIC would be a thing of the past.

Business people who make a profit are the ones who give the money to you people and to the federal government to run the country. You don't just print money; you make it by having viable businesses. My clients pay me to take care of their communication requirements, and that's the bottom line. If I don't do it, for whatever reason, they will get somebody else to do it for them.

I'd like to give you a very good example of something that happened in Quebec. It happened around 1984; I'm not sure of the year—1983, 1984, 1985—as I only found out I had to pinch-hit at about 3 this afternoon. I called a couple of members of my professional association and they agreed that it was probably 1984, but nobody could dig into it any further.

We keep hearing a lot of statistics thrown around, and having taken a few math courses when I went to school, statistics can do a lot of things: You can change them, you can go with averages, you can go with variances, all kinds



of things. You can do a lot of things, but my understanding is that in Quebec, the number of strikes since it brought in its anti-scab or anti-strikebreaking law in 1978 has increased.

In this particular situation, TAS Communications, which was the largest answering service in Canada at the time—it's now called National Pagette and is now owned by Bell Canada; I'm sure we all know who that is—was hit by an operator strike. Under the legislation, their supervisors were allowed to answer their administrative lines, which would be the Ontario Legislature or something like that, and the paging lines, but they were not allowed to answer their clients' lines, which would be your doctor on call; if your wife is going to have a baby, the gynaecologist, obstetrician; your electrician, if you lost your power in your house—those types of things.

A lot of those are small business people. They rely upon a communications company, some of them 24 hours a day because they can't afford a secretary, and some of them after hours, because very few people can afford a staff 24 hours a day. That's a large number of doctors, plumbers and electricians who were prevented from responding to emergencies.

A large number of people suffered, and finally TAS Communications closed its operations in Montreal, Quebec City and Sherbrooke. It put about 250 operators out of work, cost a lot of lost jobs in that way, and countless clients had trouble running their businesses properly. People need a lot of flexibility, especially when they're running a small business, and the restrictions that are put into Bill 40 hinder that a lot.

You cannot and should not legislate an owner into binding arbitration. As I said, you can't increase revenues, as governments do with taxes, to match expenditures. You have to make a profit. People will only pay so much, and when the cost goes above a certain level they cancel the service. We can't cancel our taxes; a lot of us would cancel our school board taxes as far as the end result we're getting is concerned, but we can't. But people can cancel our service, and when the service is cancelled, these people will be left without a client base, and when you're left without a client base, then there are no jobs left to pay higher wages to.

I'm speaking as a small business person who has had a little bit of experience with unions and so on, and I believe people have a basic right to do whatever. But so do business people have a right, and I think they have as much right to run their business fairly and be fair to their employees and to their family, because there aren't many small businesses that, when they go to borrow, the banks don't take their home as collateral. If that business fails, they're out on the street without their house. I know that when union people go on strike they don't have as much money to pay their mortgages and stuff like that—there is another side to the coin, and I can certainly see it—but the level playing field is not level any more. Even your best fullback, if he's got to run at a 45-degree angle uphill, somebody's going to tackle him.

That's all I'd like to say. Thank you very much.

**Mr Paul Tripp:** My name is Paul Tripp. As announced earlier, I'm representing the Trenton Chamber of Commerce and I'm standing in for our president, Jim Coward, who has a very ill wife this evening.

A lot of our brief is addressing some of the same issues. In the interest of trying to let other people have time to speak, I will start my presentation verbally with what I consider the general economic situation, which is about halfway through our brief.

Basically, we feel government introduced this legislation at the wrong time. These proposals will only shake an already rattled business community, hurting the recovery even more. The government's legislation will only improve conditions for the already employed, even if the proposals accomplish the NDP's goals. The proposals do nothing to keep companies in Ontario. Unemployed workers will receive no help from the NDP's legislation. The bill only helps workers on strike or those who want to form a union, not people without work. A union card is not much good if you don't have a job.

The legislation will drive a wedge between business and labour. Employer groups are adamant in their opposition to these proposals, while organized labour is generally in favour of the legislation. Many companies have said that changing the Ontario Labour Relations Act could make management think twice about expanding in Ontario. Companies and unions will be battling each other at the very time they need to be working together to bring about an economic recovery.

There are other considerations. The government has not made a convincing case why this legislation is needed at this time. About 95% of all contract negotiations are settled without strike or lockout. No major studies have been done on the potential impact of the new legislation. The middle of a recession is not the time for the government to go tinkering.

The legislation does nothing for the 70% of Ontario's workforce that is not unionized. The non-unionized workforce will bear the brunt of the damage this legislation could unleash on the economy and receive none of the benefits.

The legislation will frighten existing businesses from expanding. Companies realize that with profits already at rock bottom, the spectre of increased union activity is a bad sign for their future in Ontario.

Business and labour, which should be working together to facilitate the economic renewal of this province, will now have their vital energy and attention diverted to debating this legislation while the economy of the province crumbles.

The NDP changes to the Ontario Labour Relations Act will shift the balance of power in favour of the trade unions. This shift will shake investor confidence in Ontario and make our businesses uncompetitive in the new global economy.

The law will make it easier for trade unions to organize workers in non-unionized companies. It targets retail and service sector companies, industries already hurt by the recession. It will allow unions to mount organizing campaigns and to picket in malls and on other private property,

drop the level of support required for a vote on union certification and prevent workers from changing their minds about joining a union.

Obviously, the desire of the government is to expand trade union membership in Ontario, and it's the only goal driving these amendments.

The new replacement worker provisions will restrict or even eliminate the ability of businesses to continue operation during a labour disruption. This means that companies operating with just-in-time methods could be closed or have to leave the province if they are unable to meet their obligations.

The first-contract arbitration amendment ensures that unions will be able to promise new members that they will not have to have a strike to reach a first contract. This will make it easier for organization and could discourage them from seriously dealing with the issues at the bargaining table.

By enlarging the remedial and enforcement powers of the Ontario Labour Relations Board and by giving it a pro-labour bias, these amendments will lead to an unbalanced interpretation and application of the legislation. No longer an impartial referee, the OLRB will become an advocate for labour.

Many of these provisions do not exist in other parts of Canada. For example, if these proposals become law, every province except Ontario would give employees the opportunity to change their minds after signing a card. No other province would provide for compulsory first-contract arbitration after 30 days. No other province would allow access to third-party property for organization purposes and, besides Ontario, only Quebec would prohibit the use of replacement workers during a strike.

2000

The government claims that a ban on replacement workers would reduce the number of strikes. In Quebec, where replacement workers have been banned since the late 1970s, the province continues to be plagued by a high volume of strike activity. Between 1988 and 1991, Quebec endured 531 work stoppages, while Ontario experienced 477 work stoppages.

I'll skip what Mr Palmer, the president of the chamber of commerce, says because I think it has already been presented in another brief. I will go to my final comment.

In summary, this bill should be shelved until meaningful discussions among business, labour and the Legislature are held; then the Legislature might be fair to all parties. In the rest of the world, deregulation and privatization are the norm. Only here do we try to emulate the old USSR.

**The Chair:** Thank you. We have time for dialogue. Mr Offer, Mr McGuinty, two and a half minutes, please.

**Mr McGuinty:** Thank you, gentlemen, for your presentation. I want you to think of what's happening on the top of this table as the things that take place within the general consciousness of what goes on in the workplace. The problem is that often underneath the table, within the context of an organizational drive, there will be, if not coercion and intimidation, often allegations and innuendo of those kinds of things going on. Based on what I've

heard over the last few weeks of these hearings, I am convinced that at times some employers do in fact force and intimidate. But I'm also firmly convinced that at times those persons involved in organizing become overzealous and also coerce and intimidate.

Why can't we take what's going on underneath this table and put it on top of this table? Can we not open up the process somehow so that ultimately we end up with a secret ballot, and those prepared to join the union can vote by way of secret ballot?

**Mr Tripp:** I personally would have no problem with that, and I can assure you that I'm aware of some of the activities that go on under the table. Some years ago, I had the misfortune to be an acting president of a firm in northern Ontario in which we were locked in a knock-down strike with the Teamsters. Believe you me, if anybody has any doubts of what they can do, I would be the first to be able to inform you that they're pretty rough. We had the manager's wife intimidated on the phone, we had Krazy-Glue put in the locks, we had windows knocked out, we had sugared engines in the trucks and, finally, we had to have an Ontario Provincial Police escort to the Quebec border, whereupon the Sûreté du Québec took the truck to the final delivery.

We were accused of all kinds of things. They even brought in the defence department; a member of the Ontario Legislature stood up and asked the government of the day if it was supporting distributors that hired scabs. He said no, they were going after the one that had the best price. It turned out that the pressure that had been brought on the defence department happened to be from a sister-in-law of the negotiator.

I've been down that road. I've seen it all. But if you can get up on the table, secret ballot, sure.

**Mr Sterling:** I want to thank the group for coming in. Our party, the Progressive Conservative Party, actually goes further than what you're asking. We think this is bad legislation, and our party has said it would repeal it, given the chance, after the next election. That's not without the realm of possibility, because our polls most recently show the governing party as third party in terms of present popularity in this province.

Interjection.

**Mr Sterling:** It's the truth.

Interjection.

**Mr Sterling:** I've been elected five times, fellows.

At any rate, within this bill, I've heard business come forward and I've heard labour come forward. Labour has put forward this notion that this is a bill which is going to make labour and management work together in partnership in the future in a better way. In my view, if you have that kind of notion, you have to have something for labour in the bill and you have to have something for business in the bill. I have not heard any business group tell me of one section of this bill which improves the situation in dealing with unions as an improvement over our existing legislation.

Is there anything in the bill which, in your view, improves the situation with regard to labour and management working towards a better economy for everybody?



**Mr Aulthouse:** If I can answer that, when we appeared here in January as the Belleville and District Chamber of Commerce we were very outspoken against the proposals, and the response of the Minister of Labour at that time was simply, "Fundamentally we differ, philosophically we differ."

We looked at things a little further and said we're certainly not going to get very far by simply saying that we disagree and giving our reasons for disagreeing. You talk about the spirit of cooperation and all of the aims we said we agree with: spirit of cooperation, reducing conflict and so on. Certainly everyone, I think, would agree that those are very good. We just don't see that there's anything in the proposals that accomplishes that.

When you talk about replacement workers and banning replacement workers so that you reduce conflict on the line, what we've said in the past is that this is giving all the bullets to one side. Was there ever a discussion that you ban picketing? That's the opposite side of the coin. Certainly that's not been said, and we don't see that the other opposite extreme would be, of course, banning replacement workers. We don't see that as viable.

What we've tried to do at this point is to look at the issue a little differently. We've spoken with Ken Signoretti, as I said, we've spoken with Gord Wilson, who participated at the request of the labour council, and we invited Ken Signoretti as well, to try to get an insight into what this is about and where can we fit in, and we certainly don't see anything. What we're looking at now is simply saying that the big concern among our members is what's going on in the economy. It's a sort of day-to-day fight to survive.

To take this issue to its most simple form, we're saying, "Not now; it's just not the time to make these kinds of changes." No one has shown that they're going to create jobs or stimulate the economy in any fashion. At its simplest, we can't even agree with it at that point, other than the aims. We think the aims are admirable but that's it.

**The Chair:** Thank you. Ms Murdock.

**Ms Murdock:** Thank you. I don't have much time, so just a couple of corrections on Mr Tripp's second-last page—you don't have the pages numbered—the provisions where "every province except Ontario would give employees the opportunity to change their minds after signing a union card."

In actual fact, it's the exact opposite. Ontario is the only one that is still going to allow petitions up to the date of application. In all other provinces and federal jurisdictions the exact opposite is the case. There are no petitions, period.

In the paragraph in regard to, "No other province would allow access to third-party property" or "would prohibit the use of replacement workers during a strike," that isn't quite—Quebec is certainly the problem, but even Mexico, which is not renowned for its labour relations history, has a replacement worker ban. So it's interesting that in Third World countries they are thinking ahead to those kinds of situations.

I guess what I mostly want to know from your membership is that for those groups that are not organized at the present time, in most instances with the exception of part-timers and some of the exclusions under the present act, if they have not indicated in any way thus far that they intend to organize and they have made no moves in that way, how exactly and why do you see Bill 40 as changing that?

It does not mean—I know we've heard throughout some of the hearings in the past few weeks from small business in particular fields—that the day after this bill is passed, suddenly it's going to be organized. One presenter in Windsor actually said that, and we were sitting there and saying no, that it's still an option for the employees. I'm wondering, if they haven't demonstrated that choice yet, why you would think Bill 40 would change that.

2010

**Mr McGrath:** I'll try to answer that as a small business person. I think it gives you the feeling that any of your protection is taken away if you do happen to get into a situation where they want to, that you've lost all the gears to be able to pull the load.

I'll tell you about a circumstance. We had a semi-disgruntled employee. We had a number of people who had unlisted phone numbers and the unlisted phone numbers were given out to a union organizer. Luckily, two of my girls had worked for that particular union before. One of them went to the police and charged them with harassing, because she had an unlisted number. The other one gave me the business agent's phone number. So I took the bull by the horns and I invited the lady and I said: "Why don't you come to our Christmas party? You have a half-hour to tell the employees. That way you're not waking people up in the middle of the day who are working the midnight shift and this and that. Let's get it totally in the open."

I had the option. I thought if they want to do that and they want to go on strike, I still have supervisory personnel who can mend my operation and I can run it. But with some of the provisions that are in there, I feel that maybe myself and my wife would be there 24 hours a day, and I have two small children, so I would be virtually held at ransom.

**Mr Hayes:** Mr Chair, it's not a question. I've got to make a clarification here.

**The Chair:** Don't do it now, because I've got to move on.

**Mr Hayes:** It's very important to all the people. I wouldn't want them to leave without knowing this information. It's very important.

**The Chair:** Just a minute. I want to say thank you to the people—

Interjection.

**The Chair:** I'm saying thank you to these people. You don't want to interrupt that.

I want to say thank you to Paul Tripp, appearing here and speaking on behalf of the Trenton Chamber of Commerce, to Brad Aulthouse and Deryk McGrath, both members—in the case of Mr Aulthouse, president—of the

Belleville and District Chamber of Commerce. You've provided the committee with some valuable input. We appreciate you being here. We're grateful to you, all of us. Take care and have a safe trip back home, and of course you're welcome to stay.

#### UNEMPLOYMENT HELP CENTRE

**The Chair:** The next group is the Unemployment Help Centre. If they would please come forward, seat themselves. As the same time as their submissions are being distributed, the paper referred to earlier today, and questions to the parliamentary assistant, the Implications for the Economy of the Proposed Reforms of the Labour Relations Act by Noah Meltz, PhD, November 1991, is being distributed. If people who are here as observers or participants want a copy of that paper by Noah M. Meltz, PhD, let the clerk know, or just hold your hand out as he's walking past, because he's got some extra copies for you.

People from the Unemployment Help Centre, good evening, welcome. Tell us your names please, your titles, if any.

**Ms Theresa Houston:** My name is Theresa Houston. I'm the director of the Unemployment Help Centre for the last 16 years.

**Mr Bruce Campbell:** My name is Bruce Campbell. I also do some part-time work assisting Theresa at the Unemployment Help Centre. My background is primarily in labour-related cases, employment standards, workers' compensation, this kind of thing.

**Mr Vince Maloney:** My name is Vince Maloney, and Theresa asked me to just sit beside her for moral support. At the present time I'm an unemployed, retired person.

**Ms Houston:** I would like to make a few comments before I begin. I have heard more than once tonight about studies—the gentleman is gone—why doesn't labour do studies? Mr Chairman, we're studied to death. We don't need studies. We need changes.

I would like to quote some of the numbers. In August to September 5, the regional percentage rate for this area was 9.8%. The number of claimants on claim is 6,340; Kingston area, 9.2%. The national rate is 11.3%; the provincial rate is 11%.

I continually hear the chamber of commerce saying, "If we do this, we're going to lose jobs." We've lost them. We're not going to lose them with this. We're going to gain them. I've been 16 years, and I've watched the unemployment rate grow, treble, in those 16 years. What made it treble? Free trade was one; Bill C-21, the federal government, was another. These are the things that are making people lose their jobs.

Now I'll go on to a calmer situation. Thank you for allowing us to come here to comment on the new proposed changes. It has been many years since there were serious reviews or amendments to this specific act.

The workplace is changing at a rapid pace. Workers who have worked and survived for many years of their lives now find themselves unemployed. These workers' skills are no longer in demand. Workers must adjust to these rapid changes. It only makes sense that legislation

must change to meet the needs of our workforce. If workers must change and legislation must change, I find it very difficult to comprehend why employers find it so difficult to accept these proposed legislative changes.

Recently, I attended a meeting at city hall. I believe it was sponsored by the chamber of commerce. One small businessman stood up and made a statement. He said, "Only bad employers have anything to fear from these legislative changes." I applaud this gentleman. He was dealing with reality in a changing world.

Every worker has a right to organize without fear, and it's the government's responsibility to provide good legislation to alleviate a worker's fear of reprisals.

I have no doubt the Labour Relations Act has served its purpose over the years, but with the industrial upheaval in the past 16 years, our workforce has changed drastically, and not for the good of workers and their families. We have a large pool of skilled workers who now find themselves without work. The need for their skills is gone. Their jobs are lost for ever.

I have sat behind my desk for over 16 years listening to the fears of workers, "One mention of union and you don't have a job," and listening to workers who have skills and have earned a decent wage through the efforts of their unions now saying: "I have no place in this society. My skills are of no value. I have to be retrained or work for minimum wage."

These workers have families. How can they exist on minimum wage?

The federal government's Bill C-21 emasculated the Unemployment Insurance Act, trebled our load on welfare departments, trebled our load at food banks and created a million poorer in Canada; business supported those changes. Business supported free trade. They have imported from other countries until we can scarcely buy a product made in Canada. This is what has changed the face of our industrial base. We are becoming a country not of producers but of sellers of imported goods for minimum wages.

Labour is adjusting to the changes through massive efforts for retraining for the workers and efforts to assist the workers to adjust to a changing society. Labour is assisting with all of these adjustments, but where are the efforts from business? I do not wish to labour on the lack of effort from the business sectors. There are many good employers, many going under with the workers.

But I do stress very strongly to the chamber of commerce to get your act together and assist in these industrial changes and assist in the retraining of our workforce. Failing this, you will end up with nothing. All businesses depend on the spending of the consumer. If we have no consumers, there's no business.

#### 2020

My assistant will enlarge on the technical side of it, but my suggestions to the new proposed changes are:

1. Minimum wage should be \$10 an hour, because the people who receive minimum wage cannot exist.
2. Workers should be protected against reprisals for trying to organize for their own betterment.



3. There must be no replacement workers when a legal strike is called or a lockout takes place. This will prevent any violence on picket lines. Violence is created by the busing in of desperate unemployed workers, some with promises of a permanent job. The more desperate an unemployed worker, the more violence on the picket line. This is baiting worker against worker, and it must be stopped.

4. Employers should not be allowed to continue until a contract is signed. No contract, no work.

5. Inclusion of all workers under the Labour Relations Act; it could be farm workers, service workers, domestic and otherwise, security guards, catering workers, inside and outside workers. All workers must be protected through the appropriate legislation. No worker should be left unprotected.

I applaud this government in its concern for the workers of this country. I fully support the changes proposed for the protection of workers.

To the chamber of commerce I say no, it is not the union leaders who are guiding this government; it is the workers who are fighting for their very existence. Yes, the business is consumers.

**Mr Campbell:** I've just got a couple of additional comments to make. There is one thing that some groups seem to have lost sight of and that's the intent of the original legislation that's been in place through consecutive governments, some of whose members are represented here. I'm sure many are already familiar with the OLRA, the Ontario Labour Relations Act, but it's just a good idea to review the preamble. I'll try and keep it short here:

"Whereas it is in the public interest of the province of Ontario to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between employers and trade unions as the freely designated representatives" of the workers.

In other words, it's one of our stands that up until now one of our big weaknesses here has not been in the intent of the legislation, it's that employers have largely been able to circumvent the intent of the legislation. Most of the complaints we've heard here today have to do with employers who now fear that they are going to have to live up to this preamble that's been stated very clearly in very old labour legislation.

This is not a new intent. This is nothing new, no new radical departure. It has been in existence since the Industrial Disputes Investigation Act of the 1930s and 1940s. Up till now, as I say, the employers have largely been able to live with the legislation because they've been able to circumvent its intentions.

People who live in fear of reprisals, this type of thing—I'm sure we've heard enough anecdotal evidence to support that. By the way, with regard to some of the evidence about the Teamsters and what not earlier, I don't think any responsible union would come out and advocate that and say that should be permitted. I think those people should be prosecuted just as quickly and thoroughly as the employers who practise unfair labour practices.

Getting back to the legislation's coherence with existing legislation, even the most salient and most publicized aspect of the act, and that's the use of no replacement workers, I think the allowance, the tolerance, of replacement workers under existing legislation is probably more aberrant with regard to the act, because what the collective bargaining legislation has always envisioned is the use of economic sanctions by one party against the other. This is how they bring their power to bear. The employer can impose a lockout and the employees can impose a strike. This is how one side or the other does its push and pull at the table.

The only difference up till now has been that the employer has been able to circumvent the power legislation has given to the union by saying, "Nominally, you have the right to go on strike," but the employer can just undercut that power by bringing in replacement workers. This has been especially true in the low-paying sectors, the minimum wage places, where the lineup theory of labour economics really does take effect. One worker is as good as another. If you have minimum skills, you'll have a longer lineup. These aren't high-tech firms that find people hard to replace.

It's a central process. It's a central point of the collective bargaining legislation. People are allowed to use economic sanctions. One thing no legislation has ever specified as a right is to use replacement workers. By definition, they are third parties unrelated to the essential relationship between employees and employers. So I think, if anything, up till now that has been an aberration to the essential point of collective bargaining in Ontario, and not the radical change groups have put it up to be.

Another thing I'd like to bring up, and in anticipation of other objections to the new changes of existing legislation, not just the Labour Relations Act but the Occupational Health and Safety Act and the Employment Standards Act, is basically that some employers have said, "Workers have a great amount of protection as it is already," but I think especially people in the Ministry of Labour and people who deal with the Employment Standards Act know this isn't the case.

Maybe you're familiar with Mr Roy Adams. He has been an arbitrator with the labour relations board, he's sat in a number of disputes, he has extensive experience with specifically this act. This is a study he did in *Relations Industrielles*. This is the Canadian journal for industrial relations. He basically said that the Employment Standards Act and related legislation only helps workers whose employment bond has been broken already.

In other words, although the original intent of the legislation, under article 57, states that these procedures are supposed to be available for non-unionized people who have a problem during their ongoing labour relationship with their employer, what's happened is that roughly 90% of these cases only arise after the relationship has been severed.

In other words, the employment standards branch of the Ministry of Labour has only served, and I think he used the words here, he says, "the employment standards branch is primarily a collection agency." In other words, it

only deals with people trying to recoup some of their losses they have incurred while in their labour relationship, collecting back pay, this type of thing.

Even at that, even where the worker has been adjudged to be in the right, there's been a hearing, all the hoops have been gone through, one out of seven workers in this province still does not collect. In other words, the act simply doesn't accomplish the things it was set out to do.

Article 57, the part of the act that protects workers from discrimination because they launched a complaint under the act, has largely been ineffective. People like ourselves who work with these people hear the same story day in, day out, "Basically, I'm coming to you, but I'm trying to decide whether to go ahead with it or not, because even though I nominally have this protection, I know my boss is going to have me fired for another reason several weeks down the road," and the part of the act that acts to protect a worker against that kind of thing is essentially undercut.

Here he goes on: "Article 57 cases are very rare. They are so rare that the branch does not even keep records of them. In response to my request for data, the branch did an informal survey of long-service officers. Between them, three cases were identified. One of these was decided in case of the employer." And supposedly this is the only legislation that workers will be left with if they are non-unionized people.

#### 2030

The other study I came across was in the ninth annual report of the Advisory Council on Occupational Health and Occupational Safety. This is a survey of 2,850 workplaces, and these are places for which the law has designated that they establish joint occupational health and safety committees. Their problems seem to be low levels of compliance and lack of communication. It was found that only 66% of those workplaces with 20 employees or less had established the required committees. As well, it was discovered that, of all establishments, only about 20% were in compliance with all legal requirements.

So again, this is another major piece of legislation that supposedly seeks to protect non-union people, yet its very existence is fine on paper but without any practical method of enforcement. I'm afraid workers in this province who work without a union are pretty much up the creek. For various reasons arising from economic pressures, from the coercions, informal and openly expressed, and from administrative and logistical problems, basically we're left with little effective access to the legislative protection that supposedly and ostensibly is there for their protection. Good intentions alone have not helped these people, and provide a good case for the equal footing that the new legislation provides.

I know a few people have said it before, but I think any legitimate employer has no need to fear a system that merely seeks to give everybody access to due process in labour law, which we're supposed to already exist under anyway. No place is going to become unionized unless the people of that workplace democratically choose that, "Yes, we want a union." The flip side of that is that if they choose not to have a union, nobody is going to coerce

them to have a union. So I don't see why this fear even exists.

The cynical part of me suggests that it's probably a smokescreen. I think all of us recognize that people have a legitimate right to get into business for themselves, but they are also obliged, once they do that, to live up to the norms that society has imposed through its legislation. Knowing that, I think both parties would be much better off.

A lot of people have made another issue out of their desire to communicate directly to the workers. Well, in the absence of any body that's going to function to protect those workers from reprisals, I think that's pretty much an empty suggestion. There are non-union places, obviously, where people get along famously, and I think that's better for both sides. It speaks well of their intentions and what not.

But when I hear phrases like, "We want to talk directly to our workers," well, if you generally want to discern the intentions of your workers and their honest opinion about things, let it be submitted to a private vote. In fact, the collective bargaining mechanism was set up just so workers would have a proper framework within which all their problems could be addressed.

I'll finish with the comment that I think we're probably blowing some of these things out of proportion. The fact of the matter is that 95% of all collective agreements in this province are reached without a strike. They're settled peacefully, amicably and what not.

As for the comparison with Quebec, something that people have not paid much attention to is the fact that had it not been for that legislation, the enrolment in unions of so many people and the granting of certification to a lot of the public service sectors in Quebec—that accounts for a good portion of the unionized sector in Quebec, and if we're to follow that logic, we should have seen the strike activity triple. It should have gone through the roof, given that at the same time as this legislation went through, other legislation went through giving many more people the right to strike. Yet they did not exercise it.

So if people—I'm talking about both sides now—are generally interested in getting along, I think we will, and this legislation will help us do just that. I encourage the government to continue the direction it's taken.

**Mr Maloney:** Mr Chairman, members of the committee. I speak as a retired worker. I've been retired now for 10 years; I worked at Alcan for 32. I want to stress that I went to work for the company; I didn't go to die for it. My reason for saying this is that in my opinion, anywhere there is a well-run and effective union, you also have much greater safety in the workplace.

I am lucky that I have all my fingers; I worked with hazardous equipment. But we had a good, strong union and a company that recognized that union and acted responsibly. During those 32 years I was on strike twice, and neither of those times was for monetary issues; it was for working conditions.

It seems to me that one of the most important things—which I haven't heard discussed, and I've been watching these hearings on TV at home—is the importance of health



and safety in the workplace. The number of injuries that take place are a far greater loss to companies, in my opinion, than this great fear they have that suddenly all their employees are going to start growing horns out of their heads.

I wish to suggest to you that perhaps—we'll never know—had they had a union in Pictou county this past spring and a very effective safety and health committee, maybe those men wouldn't have been down there and maybe that coal dust would have been cleaned up. Maybe there wouldn't have been an explosion and maybe there wouldn't have been 26 people who lost their lives there. They died for the company. People don't want to do that. They want to work for the company; they damn well don't want to die for it.

**The Chair:** I want to say thank you to Bruce Campbell, Theresa Houston, the director of the Unemployment Help Centre, and to Vince Maloney for their comments this evening on Bill 40. Your perspective is one that's an important one. It's the first time, I tell you, this committee has had that particular viewpoint. The committee appreciates that, is thankful and wants to express its gratitude.

**Ms Houston:** We will be preparing a lengthy brief on the responses to the legislation. Due to lack of time, we didn't have it done, but we'll make sure every member here gets a copy of it.

**The Chair:** Thank you, and one to the clerk of the resources development committee, Queen's Park.

**Ms Houston:** Right. He'll be first to get it.

**The Chair:** Thank you. God bless.

2040

#### CONCRETE PRECASTERS ASSOCIATION OF ONTARIO

**The Chair:** Next is the Concrete Precasters Association of Ontario. People, please tell us your names and your titles, if any. We've got your written submissions, which are well-prepared. They're brief, they're concise and they will allow plenty of time for dialogue which, as you can see, is one of the more valuable parts of the process. Go ahead, please.

**Mr Glenn Caverly:** I thank you for this opportunity to speak to the committee. I introduce Jeff Bradfield, vice-president and general manager of Anchor Concrete Products Ltd in Kingston, and Brian Best, president of Planes Precast Concrete Ltd in Prescott and Kingston. My name is Glenn Caverly. I'm the manager of the Concrete Precasters Association of Ontario.

CPA is a non-profit association which represents about 32 member companies in Ontario who manufacture a common product line. Our mandate is to provide unity, communication, product development and to provide a common voice to express the concerns of our industry.

Typically, most of the precast concrete manufacturers we represent would be considered small businesses. Most of them are family businesses, and it is common to see two generations of the family working together. Personally, I have visited most of these companies in my capacity as manager of the association and have never seen abusive situations or employees being cheated out of statutory

benefits. This is not tolerated today, and there is civil legislation in place to protect these concerns. Typically, the staff and employees are working together as a cooperative and close-knit team.

Our industry has some very serious concerns, which we wish to bring to your attention, about the amendments to the Labour Relations Act as proposed in Bill 40. Why does the government assume that all employees want to be unionized? Many employees in our industry have previously worked in a union shop, prefer to be non-union and advise that they will not work in a union atmosphere.

I would like to point out that we feel the timing of these proposed changes to the Labour Relations Act is most inappropriate. The owners and management of the businesses that will be affected by this legislation are coping with the worst recession since the 1930s. Many of them are fighting for survival of their business, with failures, closures and bankruptcies being at an all-time high. How can this government justify making these changes at this time to cause the businessman to divert his time and effort away from the critical and fragile matters of keeping his business solvent? With over 550,000 people out of work in Ontario, we do not want to contribute further to this problem.

We recommend that this legislation should be shelved for a more appropriate time. Keep the ground rules the way they are now. Our members all know they must be highly productive and competitive to survive in this market. We don't need more obstacles in our path at this critical time.

It is our opinion that the Ontario Ministry of Labour should be concentrating its efforts on the preservation, stimulation and creation of jobs. After this has been accomplished is the time to review and amend the Labour Relations Act, if needed.

This new legislation would reduce the percentage of workers supporting a vote on unionization to 40%. This means that the wishes of the majority of workers would be ignored, prompting time-consuming preoccupation with a certification vote that most employees may not want in the first place.

Why do these amendments not include a change to provide a secret ballot to certify a union? The secret ballot is the cornerstone of a democratic society. The antiquated process of signing cards leaves employees open to intimidation. Without an opportunity to make a private decision, employees may feel pressured into signing a membership card. In a democratic society, shouldn't employees who do not want a union have the right to make their views known?

Employer and union representatives should have equal and fair time to present their case and respond to questions from employees when certification is considered.

This legislation will do nothing to inspire and stimulate consumer confidence and improve the economy in Ontario. It is sure to discourage further investment by Ontario businessmen and it certainly will not improve the employment situation.

In conclusion, we are very concerned and worried about what this legislation will do to the firms we represent and the jobs of the employees who depend on us. Thank you.

**The Chair:** Thank you, sir. Let me congratulate you and your association on a brief which puts your position clearly and concisely, and makes your arguments but still permits time for exchanges. Mr Sterling, please. We have seven minutes.

**Mr Sterling:** I don't really need to ask you questions, because the Chairman is right in terms of you putting forth your position. But maybe, in terms of one of the concerns that may or may not be valid on my part, I believe that as you squeeze out small, family-run businesses by putting them more into a union situation, when the confrontations that exists between unions and their employers from time to time occur, basically I think if you are a small business person you can't last, but if you're big and you're a multinational organization you probably can withstand that kind of standoff because you have resources from another province, another state or whatever it is. Do you have any feeling on that at all?

Particularly, we heard about some retail organizations. One of the NDP members and I, when we were sitting in Ottawa this afternoon, talked about various large American retailers coming in, and my view is that there are going to be more and more large American retailers coming into Ontario and Canada because they have the financial wherewithal to withstand the kind of industrial dispute that can take place. I don't know if you'd like to comment on that or not. Do you think my fear is well founded?

**Mr Caverly:** Perhaps I'll ask Brian to comment on that.

**Mr Brian Best:** I think small business has to be flexible, has to be able to compete with larger businesses that may be associated in certain product lines. In the precast business, there are multinationals with subsidiaries that manufacture precast concrete. We have to be able to manufacture and compete in a local region against them; and yes, these companies are coming in from the US and there is concern.

One thing I would like to point out is that the working man, the hourly paid person, in this day and age is far more educated, far more aware of his rights. He feels that under the labour laws and the safety laws that are in existence at this point, he has some depth, he has some background and he has some punch to be able to do something about it if a company does step out of line. I think the need for the threat—and I think we have to look at it that way, because usually it starts from a disgruntled person not happy with a decision and then travels into a situation where that individual wants to get revenge—puts it in a very difficult position for the company to continue and to maintain good relationships.

2050

**Ms Murdock:** Thank you for staying so long; it's dark now. On your second page, in regard to shelving the legislation and the appropriate time for this kind of legislation or any kind of changes to the Labour Relations Act, a little bit of history, I guess, is that in 1985, when the Liber-

als and the New Democrats formed an accord, labour relations was on the agenda, because by then, Bob Mackenzie, as the critic for Labour for the New Democrats, had already received letters etc, especially from the part-time workers, women, who are now almost a majority of the workforce, complaining about the fact that they didn't have access or the right to choose if they wanted to join.

So it came out of, if you remember, the accord years. It was a big priority for us. Basically, over those two years or 18 months of the accord, we were told it wasn't the time, and that was when we had, as you recall, fairly boom years in terms of the province of Ontario. Now in hard times—and I'm not disagreeing with you at all that jobs have, particularly in the manufacturing sector, dropped significantly, long before this legislation was even a gleam in the eye of the New Democrats—we're being told it's not the time again. I guess what I'm asking you is, when is the time?

**Mr Caverly:** I state that in my fourth paragraph, Ms Murdock. It is our opinion that the Ontario Ministry of Labour should be concentrating its efforts on the preservation, stimulation and creation of jobs. After this has been accomplished is the time to review and amend the Labour Relations Act. It's a matter of priorities.

**Ms Murdock:** If I might, a good part of the job of the Minister of Industry, Trade and Technology, Ed Philip, is to create jobs and bring investments to the province of Ontario. The Ministry of Labour, on the other hand, is not a job creation ministry, generally speaking. It regulates health and safety in the workplace; 91 pieces of legislation, none of which are job creation bills.

So I guess I didn't read your fourth paragraph as a time to do it, at least not in relation to the Ministry of Labour, because it is being done. That's one of the problems with this bill, that we are seeing it and I think all parties are seeing it in isolation from everything else. There are things going on with Jobs Ontario Capital, Jobs Ontario Training, that are happening. So with that, when is the time? You can't wait around for ever to allow women access to opt to join a union if they choose to.

**Mr Caverly:** Do you wish to comment, Jeff?

**Mr Jeff Bradfield:** Sure. I'm probably somewhat ignorant of some of the things in the legislation, but are there specific exclusions at this moment excluding women from unions? What are you trying to say? I'm sorry.

**Ms Murdock:** Basically, right now 46% of the workforce are women. The majority of that 46%, over 70%, are part-timers, and of those part-timers then again almost all of them, 80%, are women. It's very difficult for part-timers to access any kind of union. Now, that's to say if they opt to. Only 30% of the workforce in the province of Ontario has chosen to join unions, despite the fact that it's open to 70% of the workforce.

**The Chair:** Can respond to that now? Has she clarified it?

**Mr Bradfield:** Yes.

**The Chair:** Go ahead.



**Mr Bradfield:** That's one part of the legislation that I personally don't have a problem with, including part-timers in the unions. A lot of us are not working on profits, as people like to discuss; we're working on cash flow. We've got to keep that cash flow coming to make sure that the bank payments are made for the investments that we've made over the last few years. Prices have reduced substantially on our products. Therefore, we're not expecting profits; we're just out there trying to generate cash flow to continue the payments until we can get back to a stage of profitability.

What we're saying as an organization, an association, is that at this time, if small business takes its eye off the ball for any moment, for virtually anything at this point, there are going to be reams of businesses that go down because they're not out there actually soliciting those sales; they're attending to something else.

**The Chair:** Thank you. Mr Hayes, and if you're brief enough, you'll allow Mr Hope and Mr Wilson each to ask questions.

**Mr Hayes:** Very brief, Mr Chair, and thank you.

**The Chair:** If not brief enough, they won't be able to.

**Mr Hayes:** Okay. First of all, I'd just like to re-emphasize what Ms Murdock has said, that in 1985, this government of today, our party, drew up the accord with the Liberal Party. At that time, I think it was pretty fair times, and that was the wrong time for them too.

We hear all the talk about all the bad things that are happening in Quebec; the number of strikes have increased. Are you aware that since 1978, when they implemented banning of replacement workers, hours of work lost due to work stoppages have decreased by 30%?

**Mr Bradfield:** No.

**The Chair:** All right, go ahead, Mr Wilson.

**Mr Gary Wilson (Kingston and The Islands):** I am pleased with these trenchant presentations. The previous presenter, after 16 years of dealing with the stress and hardship of unemployment, pointed out that workers also have a lot of problems with businesses that go under. I just wonder about your view of that.

You put all your emphasis on the owners of companies, but why aren't workers also intent on making sure the workplace succeeds so they'll have a reliable paycheck?

**Mr Caverly:** I think they are; I don't think there's any reason to doubt that they're not concerned.

**Mr Gary Wilson:** Second, then, don't they deserve a voice in how the workplace is run, since it is their livelihood that is at stake here?

**Mr Caverly:** I think that is the situation. Consultation and communication with employees is typical. Personally, I worked in this industry for 31 years, and that was a very important part of the way we operated.

**Mr Hope:** Just very briefly, I was reading your presentation, and you talked about the positive work atmosphere you have in your places. Why are you worried about labour relations reform if people are happy? The other part you touched on is consumer confidence.

**The Chair:** All right, thank you. Can you respond to that? We've got to move on.

**Mr Hope:** It's very short.

**The Chair:** If these people want to respond to that, they can now.

**Mr Best:** We've worked at it in a very positive way; we have a lot of direct communication with our employees, one-on-one, as family-owned businesses. If the guy is upset, then we try to resolve it. We don't need a third party coming in.

As I mentioned before, you can't satisfy all of the people all of the time, but if we're going to have some form of counsel head-butts or whatever as a result of it, then let's have it equally. Let's say we have it on a secret ballot; we have it 50% or more as far as the employees requiring to join the union; we don't have the minority stating that the majority are going to be part of the union; we have it as a democratic society, the majority rules.

We're hoping we can maintain the sort of relationships we have with our employees right now, but we are concerned that if in the future that continued relationship changes, that when we have to, we have an equal and a fair playing field to work on.

**Mr Offer:** Thank you for your presentation. I've listened to the questioning that's gone on. We have to put this in the light in which it is: We have, as you've indicated, over half a million people out of work. I think there was a report from Statscan today that indicated that the UI recipients have gone down across the country except in one province, and that's Ontario. I think we recognize in Ontario that bankruptcies are still at an extremely high rate.

I listened to Ms Murdock talk about this bill allowing part-time workers to be unionized, which is terrific, except for the fact they now can unionize without this bill. So I hope that we can deal with the facts as they are.

We talk about the rights of men and women in the workplace to organize. I agree; I believe that they should be allowed. If men and women in the workforce wish to be part of a union, then so be it.

My question to you is, in your opinion, is not the best way to accomplish this a free, secret vote where the workers are fully informed that there is an organizing drive, what it means to them and then to be allowed to cast their vote, free of intimidation and coercion, and if there are, then let there be a severe penalty on the employer and/or the union organizer? But let us free the workers from this intimidation and coercion and let them cast their vote freely, yes or no, for a union. Do you agree with that?

**Mr Caverly:** I personally agree with you. Yes, I would agree with you. No problem.

**The Chair:** I want to thank the presenters appearing on behalf of the Concrete Precasters Association of Ontario. It's the first time that your specific industry has been represented here, and the committee's grateful to you for your interest and for your participation. Thank you, gentlemen.

Mr Hope, you had a matter to raise for the committee.

**Mr Hope:** I'd just like to ask the legislative researcher a question. I don't know if there are any written answers anywhere, but if inside the labour relations law and inside the employment standards law you decipher whose rights, whether it be the employer's rights or the employee's rights—if it is not written in law in those two acts, who holds the dominating right then?

**The Chair:** You mean whose rights prevail in the absence of any direct addressing of that in the legislation?

**Mr Hope:** You're absolutely right. I knew you would come up with it. You're a lawyer, so I knew you'd come up with the clarification.

**The Chair:** Gosh. Some of these people were starting to like me until you told them that. Is that something that legislative research wants to reflect on?

**Mr Avrum Fenson:** Yes, maybe I should. I think the general answer is that the rights are created by statute, and if they're not addressed by the statute, there's no—

**Interjection:** Then it becomes the employer's right.

**Mr Fenson:** Well, no. Then other law applies. Property rights might dominate; it depends what the context is

or what the situation is. The law of contract always exists, the law of property exists.

**The Chair:** And ultimately the common law. Isn't what you're trying to say?

**Mr Fenson:** And the common law exists. There are very few vacuums into which some law doesn't seep if another law doesn't occupy it.

**The Chair:** Are you satisfied with that, Mr Hope, or do you want a more elaborate response?

**Mr Hope:** I'm satisfied.

**The Chair:** Are there any other matters for committee?

I want to say thank you to the committee members for their cooperation, to the staff who have been very helpful, especially in terms of their speedy setup here, to the people who were participants and observers for their patience this evening and for their interest in this matter.

We're going to resume tomorrow morning at 10 o'clock. We'll be sitting until approximately 5. People are welcome as observers and there will, of course, be an interesting lineup of participants. Thank you, people. We're adjourned till then. Take care.

The committee adjourned at 2105.





**Substitutions / Membres remplaçants:**

- \*Bisson, Gilles (Cochrane South/-Sud ND) for Mr Dadamo
  - \*Daigeler, Hans (Nepean L) for Mr Conway
  - \*Fawcett, Joan M. (Northumberland L) for Mr Conway
  - \*Hayes, Pat (Essex-Kent ND) for Mr Klopp
  - \*Hope, Randy R. (Chatham-Kent ND) for Mr Wood
  - \*Runciman, Robert W. (Leeds-Grenville PC) for Mr Jordan
  - \*Sterling, Norman W. (Carleton PC) for Mr Jordan
  - \*Ward, Brad (Brantford ND) for Mr Waters
  - \*Wilson, Gary (Kingston and The Islands/Kingston et Îles ND) for Mr Dadamo
  - \*Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Turnbull
- Also taking part / Autres participants et participantes:**
- O'Neill, Yvonne (Ottawa-Rideau L)

\*In attendance / présents

**Clerk pro tem / Greffier par intérim:** Decker, Todd

**Staff / Personnel:**

Fenson, Avrum, research officer, Legislative Research Service



## CONTENTS

Wednesday 26 August 1992

<b>Labour Relations and Employment Statute Law Amendment Act, 1992, Bill 40</b> . . . . .	R-829
Canadian Guards Association . . . . .	R-829
Stuart Deans, president	
Canadian Union of Public Employees, Local 503 . . . . .	R-833
David J. Jewitt, counsel	
Foster Griezic . . . . .	R-838
Nepean Chamber of Commerce . . . . .	R-842
Buck Arnold, executive director	
Robert Allan, board member	
Social Planning Council of Ottawa-Carleton . . . . .	R-848
Jim Zamprelli, executive director	
Ottawa Construction Association . . . . .	R-851
Stephen Sulpher, executive director	
Dan Greco, director of labour relations	
Ottawa-Carleton Home Builders' Association . . . . .	R-851
Robert Sanscartier, president-elect	
International Association of Machinists and Aerospace Workers . . . . .	R-856
Jim Reid, special representative	
Women's Place . . . . .	R-859
Patricia Petrala, past-president and board member	
Sheela Biman, volunteer, coordinator, Multicultural Council of Professional Women	
United Food and Commercial Workers International Union . . . . .	R-863
Barry Baily, eastern regional director, UFCW local 175	
Tim Catherwood, special assistant to the Canadian director	
Quinte Labour Council . . . . .	R-868
Doug Sword, president	
Barbara Dolan, vice-president, Communications and Electrical Workers of Canada, Local 30	
Rick Rose, president and chairperson, CAW Canada, Local 1530	
Belleville and District Chamber of Commerce . . . . .	R-872
Brad Aulthouse, president	
Deryk McGrath, member	
Trenton Chamber of Commerce . . . . .	R-872
Paul Tripp, member	
Unemployment Help Centre . . . . .	R-877
Theresa Houston, director	
Bruce Campbell, assistant to the director	
Vince Maloney	
Concrete Precasters Association of Ontario . . . . .	R-880
Glenn Caverly, general manager	
Jeff Bradfield, vice-president and general manager, Anchor Concrete Products Ltd	
Brian Best, president, Planes Precast Concrete Ltd	

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*Continued overleaf*



## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Thursday 27 August 1992

### Standing committee on resources development

Labour Relations and  
Employment Statute Law  
Amendment Act, 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Jeudi 27 août 1992

### Comité permanent du développement des ressources

Loi de 1992 modifiant des lois  
en ce qui a trait aux relations  
de travail et à l'emploi



Chair: Peter Kormos  
Clerk pro tem: Todd Decker

Président : Peter Kormos  
Greffier par intérim : Todd Decker





## **Table of Contents**

Table of Contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

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## **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday 27 August 1992

The committee met at 1000 in the Howard Johnson Confederation Place Hotel, Kingston.

LABOUR RELATIONS AND  
EMPLOYMENT STATUTE LAW  
AMENDMENT ACT, 1992  
LOI DE 1992 MODIFIANT DES LOIS  
EN CE QUI A TRAIT AUX RELATIONS  
DE TRAVAIL ET À L'EMPLOI

Consideration of Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment / Loi modifiant certaines lois en ce qui a trait à la négociation collective et à l'emploi.

KINGSTON DISTRICT  
CHAMBER OF COMMERCE

**The Vice-Chair (Mr Bob Huget):** First of all, good morning, everyone. The first group scheduled to appear this morning is the Kingston District Chamber of Commerce. Could you come forward. Welcome. Could you identify yourselves and then proceed with your presentation. You're allocated half an hour, and the committee would really appreciate if you could leave some of that half an hour for questions and answers.

**Mr David Cunningham:** Thank you very much, Mr Chairman. My name is David Cunningham. I'm the second vice-president of the Kingston District Chamber of Commerce, and with me today are Les Foreman and Bert Walsh. We are here today representing the more than 900 firms that belong to the chamber of commerce. This presentation is also endorsed by the Brockville Chamber of Commerce.

Rather than repeat the presentation made to the ministerial consultations earlier this year, we thought we would bring some of the members of the Kingston business community into your hearing room to present their views about Bill 40. We have a couple of screens set up here to the left.

[Video presentation]

1020

**Mr Cunningham:** The views presented in this unique video collage are the unscripted, unprompted concerns of a representative cross-section of the greater Kingston business community. The businessmen and businesswomen appearing on this video are real people from all sectors, typical business people struggling to stay afloat in a no-growth economy, planning to create new employment opportunities right here in Kingston as they grow their businesses when the economy turns up. Their concerns are genuine, sincere and legitimate.

Ontario currently enjoys a high degree of workplace harmony relative to other jurisdictions. Employees are free to organize for the purposes of collective bargaining and do so with relative ease. There is an approximate balance of powers given to both management and unions in the

existing legislation under which the vast majority, approximately 95%, of agreements are achieved successfully through the collective bargaining process. Strikes and lock-outs seldom occur, and incidents or picket line violence are extremely rare. Healthy and productive relationships generally exist between unions and management.

The Ontario Labour Relations Act is high on the list of legislation that works in this province. There is low strike activity, higher employment levels and an elevated measure of prosperity relative to other jurisdictions. It should not be drastically tampered with.

Ontario's positive labour relations environment is a significant contributor to the province's overall economic success. Despite the fact that we are currently in the midst of a long and devastating recession, historically Ontario has enjoyed a higher level of prosperity than most other North American jurisdictions. Ontario has one of the largest economies in the world, and it is a partner in the world's largest trading relationship with the United States. The success of economic activity in this province has provided its citizens with a high and enviable standard of living.

Highly valued by the citizens of Ontario is our array of social programs. It is evidence of the genuine care that Ontarians hold for one another, a demonstration that Ontario cares for its disadvantaged and less fortunate. This social safety net is made possible only through continued economic success. So the needs of a multitude of stakeholders must be considered before proceeding with Bill 40.

But despite the existing scenario of labour relations success, some claim the current act is old, awkward and in need of streamlining. Indeed, one of the government's arguments in support of Bill 40 claims that the Ontario Labour Relations Act hasn't been changed in almost 17 years. However, in an address to the Kingston Rotary Club on July 30 of this year, Donald Carter, who's a professor of labour law at Queen's University and a former chairman of the Ontario Labour Relations Board, stated: "Contrary to what the Minister of Labour wrote in his recent letter to the Whig (Standard), it is not 'almost 17 years since the act was last amended.' In fact, the Ontario act has been amended five times during that period."

Our government promotes Bill 40 by stating that all of the proposals in it are in place in other jurisdictions. What they neglect to say is that in no other single jurisdiction are all of these proposals in effect. Bill 40 makes Ontario the most anti-business jurisdiction in North America.

Our government proudly tells us that there is legislation in the province of Quebec which bans the use of replacement workers, and our government often refers to Quebec as a province which has model labour relations legislation. Well, let's examine the Quebec experience.

From 1970 to 1977, there were 46 more strikes in Ontario than in Quebec. In 1978, legislation similar to Bill 40,



which banned the use of replacement workers, was introduced in that province. Between 1978 and 1991, there have been 652 more strikes in Quebec than in Ontario, and there have been more strikes in Quebec in every year but two during that time.

In Quebec, capital expenditures in the four years following the passage of Bill 40-type legislation rose 26%. During the same period, capital expenditures in Ontario rose 50%.

The Quebec experience suggests that there will be an increase in the level of strike activity leading to reduced productivity and that investment will suffer drastically as a direct result of Bill 40. This is perhaps the most powerful piece of evidence, an enormous yellow and black caution sign on the Bill 40 road.

The stable labour relations environment in Ontario is due largely to an equal and fair distribution of powers and responsibilities between unions and management. Under the existing relationship, both parties want nothing more than to resolve their differences, reach a contract and continue working. A strike or lockout is to the advantage of neither.

However, it is the looming possibility of a strike or lockout during collective bargaining that forces both sides to be reasonable. The employer must take a reasonable position in order to avoid a strike and the union must also take a reasonable position to maintain the support of its members. Strikes and lockouts are extremely rare because this dynamic, the mere possibility of a strike or lockout, is in play. Bill 40 drastically changes this dynamic. It essentially empowers unions at the expense of business.

In his address to the Kingston Rotary Club, Donald Carter said that the ban on the use of replacement workers will "give a union the power to impose an effective strike in every labour dispute, clearly altering the existing balance of bargaining power in Ontario in favour of unions." We strongly advocate the maintenance of this delicate balance of power.

Perhaps the most repugnant among the proposals are those which strip individual workers of their normal democratic rights and freedoms. Bill 40 will strip employees of the right to change their minds once they have signed a union card and Bill 40 will strip bargaining unit employees of their right to cross picket lines and return to their jobs if they feel this action to be in their own best interests. In the event of a strike, Bill 40 allows a minority of striking workers to hold the majority hostage, forcing the entire bargaining unit to continue with a strike against its will. Bill 40 disempowers workers in a fashion that is clearly undemocratic and hands that power over to big, powerful unions.

There's much evidence suggesting that the changes contained in Bill 40 will derail Ontario's economy, taking us off the track of economic renewal. In addition to the overwhelming objection of the business community across the province, there are numerous studies, most notably the Ernst and Young report of February 1992 indicating the loss of 295,000 jobs as a result of the proposed legislation and the loss of \$8.8 billion in investment over the next five years, and there are foreign banks, such as the Deutsche

Bank, warning their clients against investment in Ontario because of a negative labour relations environment.

In light of these warning signals, our government has the audacity to discredit private sector studies yet refuses to conduct an economic impact study of its own, a step that has become normal and routine in the legislative process. Indeed, our government chooses to push ahead blindly with its destructive proposals.

It is beyond comprehension why our government will conduct exhaustive studies when the habitats of owls, snails and minnows may be endangered yet when there is strong evidence that our economy may be threatened, when there are warning signs that the standard of living of all Ontarians may be at risk and when caution flags tell us our social safety net may be in jeopardy, our government refuses to conduct a study. Does our government care more about owls and snails than the citizens of this province?

The Kingston District Chamber of Commerce demands that a comprehensive economic impact study be undertaken before this bill proceeds to third reading.

In the end, Mr Chairman, neither you nor your committee nor your government will make the final decision. Business owners and managers, like the ones on the video, will make the absolute decision. They will judge the environment that you create through your legislation. They will choose to either continue operations here or take their investment and job opportunities to more welcoming jurisdictions.

So, your government will not make the truly final decision but will be held accountable.

**The Vice-Chair:** Thank you very much. You have used the time allocated to you. I'd like to thank the Kingston District Chamber of Commerce and each of you for coming forward to present your views. You may also wish to convey our thanks to the people who appeared in your video as well. On behalf of the committee, thank you very much.

1030

#### CANADIAN UNION OF PUBLIC EMPLOYEES, ONTARIO DIVISION

**The Vice-Chair:** The next group is CUPE, Ontario. First of all, welcome, and if you could identify yourselves and then proceed with your presentation. I think all members of the committee would be very pleased if there was some time in your presentation for questions and answers.

**Mr Sid Ryan:** My name is Sid Ryan, and I'm the elected president of CUPE in Ontario.

**Mr Ed Scott:** My name is Ed Scott, and I'm the area representative for the Canadian Union of Public Employees.

**Mr Joe Martin:** I'm Joe Martin, president of Local 234 of the outside workers for the city of Cornwall.

**Ms Gloria Morris:** I'm Gloria Morris, president of the Kingston and district CUPE council.

**Mr John Elder:** John Elder. I work in CUPE's legal department.

**Mr Ryan:** On behalf of the 170,000 working men and women represented by the Canadian Union of Public Employees here in Ontario, I'd like to say good morning and

convey my thanks to the committee for allowing me to share my thoughts with you on Bill 40.

Since our time with you today is short, I will also refer you to the formal brief we have submitted to your committee. This document is prepared by our legal department. It is of a more technical nature and will provide you with a thorough analysis of our position on the OLRRA amendments.

It's the largest union in the province and indeed the largest union in Canada, with over 400,000 members providing services to Canadians in virtually every part of the public sector. You can well imagine that we have much to say about these long-awaited, badly needed changes to the Ontario Labour Relations Act. The current law, I think you will agree, is outdated and based on a period of our province's history when the engine of our economy was driven almost exclusively by natural resources and manufacturing. Those days, thanks to the Mulroney government's North American free trade agreement, the GST and high interest rate policies, are just a sad memory.

I'd like to say that the debates which have unfolded in our province over these labour reforms have resulted in a healthy and vigorous exchange of ideas on both sides, with the public being the ultimate benefactor in this exchange. I'd like to say that but I can't, because this debate has really been characterized by a level of rhetoric and fear-mongering from the various anti-reform business lobbies, the likes of which this province has never seen before.

The people of Ontario have been witnesses to a highly damaging, heavily bankrolled propaganda campaign which, if nothing else, has shown us that the power brokers in this province, the banks, the insurance companies and the multinationals, are prepared to destroy the investment climate of this province in order to defeat or usurp the democratically elected government. So much for democracy.

But what makes this strategy of the business lobby so incredibly ironic is the sad fact that they have succeeded in doing exactly that which they had falsely accused these proposed labour reforms of doing: They have created a climate in Ontario that is clearly anti-investment. In this age of global economies and recessions, it may seem difficult to believe that the business lobby would deliberately sabotage the investment climate, but how else can one explain the motives of a lobby group that would erect billboards in the cities of New York, Buffalo and Toronto with the sole intent of dissuading investments in the province of Ontario? These people are not content with just lashing out at the government; they have also launched a most vicious attack on the working men and women of this province.

In a transparent piece of public relations, those opposed to Bill 40 have camouflaged their attacks on workers by focusing on unions. Their intent is to leave the impression with the public that unions are undemocratic and bad for the economy, and therefore workers should not have the freedom to easily organize. They advance these arguments while at the same time they organize themselves into business lobbies to protect their interests and to deny workers that same basic right.

These amendments, while they don't go nearly far enough in addressing some of the many inequities that working people face in Ontario, are a bold and confident step forward for our province. Workers and employers will benefit from the fairer and more stable workforce they will provide.

It is a known fact, for instance, that collective bargaining processes increase productivity. Study after study confirms that the workforces in highly unionized countries such as Germany and Sweden are more productive than their non-unionized counterparts. For those who would argue that the changes would tip the delicate balance in favour of what they characterize as strike-happy unions, think about this simple and undeniable fact: Right here in Ontario, less than 5% of labour disputes result in strike or lockout. That's correct: 95% of collective agreements are settled without having to withdraw services.

If employers in this province are serious about moving to a high-scale, high-productivity economy as they so often claim they are, they will need to develop fairer working relationships with their workers. The most important strength of any economy, after all, is its workforce. Business should be building a stronger future by improving its working relations with unions.

I'd like to touch briefly on some of the amendments themselves, because so much has been said about them, most of it inaccurate and most of it inflammatory. Firstly, far from being radical, these proposed changes, each and every one of them, are measures which already exist within one or more federal or provincial labour codes in this country. Even the so-called highly controversial anti-scab legislation, which would prohibit employers from using replacement workers during a strike or a lockout, has been in place in Quebec since the late 1970s. It has not caused the mass exodus of capital predicted by business. On the contrary, according to the federal Department of Labour itself, it has contributed to a more stable and peaceful labour relations climate in Quebec. One need only look to the prosperity and boom Quebec experienced during the period prior to the current recession to see the weaknesses in this business argument.

As for the weaknesses in the replacement worker provisions—and CUPE believes there are many—I will simply highlight the main ones. For others, I will refer you to our brief, most notably an employer's ability to still legally shift bargaining unit work to another geographical location—ambiguous language causing difficulties with the interpretation and enforcement of some of the exceptions, and equally fuzzy language regarding an employer's ability to transfer out bargaining unit work.

We've a great deal of concern regarding the exceptions permitting employers to use replacement workers. In particular, the timing for giving notice to the union is not necessarily required until promptly after a conciliation officer is appointed. This raises a couple of concerns. The union would be notified, in our opinion, too late to prepare its bargaining strategy, and what the heck does "promptly" mean? Would two weeks after conciliators' appointments be prompt enough?



CUPE strongly urges the committee to simplify and clarify the provisions relating to the transferring out of struck work by placing an outright ban on such activity. CUPE strongly endorses the proposed changes related to organizing certification and membership, although we find it puzzling that the automatic certification level remains at 55%, since a simple majority is 50% plus one.

As well, we give strong support to the new provisions for first-contract arbitration. In the past, this has proved to be a costly and time-consuming procedure which has been abused to no end by the employers trying to stave off inevitable unionization. In the same context, it would appear the government has not gone far enough in giving unions full access to employer lists of employees.

The expedited process with respect to unfair labour practice complaints during organizing campaigns is a welcome and long overdue change to the law. There are, however, several places where the proposals are not just complete or inadequate; they're completely missing. One such instance relates to the broader-based bargaining. As a union that represents workers of many social agencies and nursing homes, which rely primarily on the provincial government for funding, we have long seen the advantages and the benefits of sectoral bargaining. Not least of these benefits will be the less costly collective bargaining for unions, public sector employers and, most importantly, the taxpayers, who ultimately pay the bill.

In conclusion, I think it is only fair that CUPE recognizes all those employers who do not subscribe to the fear-mongering rhetoric of the lobby groups—employers such as General Motors and Ford of Canada, which have recently announced major investments in Ontario. These companies have invested in Ontario because they know we have a highly skilled, highly trained and highly unionized workforce that can compete with the best in the world.

We in labour are looking forward to working with the employers and the government to form real partnerships, such as was announced by General Electric Canada last January. Here we have a shining example of what can be accomplished when business, labour and government put their heads together to beat out competition from around the world: an established major lighting project right here in Ontario.

We welcome initiatives of employers like Ontario Hydro who see the benefits of working cooperatively with their employees and are blazing new trails in the area of true partnerships. We want to work with business and governments because we are committed to building a better, brighter future for Ontario and for our children.

I'll conclude there, and I'd like to pass you across to Mr Joe Martin, who will give you some examples of what happens in real life when you use replacement workers.

1040

**Mr Martin:** I'd just like to start off by saying you have to live it before you can talk it in some situations. From my local, after seven months, we have learned a lot. If this new bill doesn't come on and into place and put us on at least some same level as management, we will not have the rights to hang out there and fight for our rights

and what we believe in. We came up here very strong today because we believe in the bill and we do have to have some other rights, because after seven months, I found out I don't have too many rights. That's why this bill has to come into place. Thank you very much.

**Mr Ryan:** Next I'd like to pass you over to Gloria Morris, the president of CUPE's district council in Kingston.

**Ms Morris:** Thank you. As well as being president of the district council in Kingston, unlike my brother at the table here with me I'm president of a local which has just successfully concluded a round of collective bargaining.

As a labour leader and an activist in Kingston, I would like to address the unbalanced view that has been presented that unions are going to organize workers and then put them out on strike. This is just not the case. Unions operate on democratic principles. Workers decide to join a union and workers decide whether or not they're getting a fair deal. If they fear they're not getting a fair deal, they collectively decide whether or not to strike. They never take this decision, nor do they make the decision, lightly, and as a leader I would never recommend the decision lightly.

We do it with the realization that we are giving up our livelihood. We do it with the realization that the company that we work for or the employer is also suffering economic loss and may go out of business, and we may not have jobs to return to. So the decision to strike is never one that is taken lightly just to put a company out of business. The allegation that workers want to put a company out of business and that's why they go on strike is just patently unfair. To us, CUPE council in Kingston, it's just plain unbelievable.

**Mr Ryan:** Next I'd like to pass you across to Mr Ed Scott. Brother Ed Scott is a union organizer for CUPE.

**Mr Scott:** As stated, my name is Ed Scott, and I'm the area representative for CUPE. I've been working in the Kingston area for the last 23 years as a full-time representative. For the purpose of the Labour Relations Act, that is one who regularly works more than 24 hours per week.

My comments today are to reflect on discussions I've heard and read regarding these hearings as they relate to the certification of workers. I have personally organized and had certified over 40 groups of employees over the years. These groups have numbered from three to over 500 employees.

One of the concerns that I have is about the comments that are made at these hearings using the 55% for certification and/or the 40%-45% for a vote. In listening to it, it is a simplification and appears to imply: 100 workers, 55 sign, union certified, issue closed. Not so. The 55% is a number that constitutes the units of employees as a collective bargaining unit as defined by the Labour Relations Act and/or agreed to by the parties.

Now, for clarity of the committee, let me take you through the process:

1. Worker contacts union regarding organizing.
2. Meeting held. Members are defined, meaning numbers, whether are not they constitute full-time or part-time under the Labour Relations Act. Cards are signed.

3. Application is made to the Labour Relations Board. Union must define the appropriate bargaining unit and the geographic area. They must list their estimate of number of employees.

4. They must sign a declaration of truth that they received the dollars. Thank God that will be gone.

Then the employers reply. Notices are posted and the employer gets to define the bargaining unit, including clause 1(3)(b). That's the managerial definition: full-time, part-time and the appropriateness of employees for bargaining. The employer can split the application, for example, from a full-time to part-time, meaning two certificates.

One would assume in these hearings that a part-time worker is fairly obvious. For example, one who works 18 hours per week, 52 weeks a year, must be a part-time worker. Not so. Part-time workers include summer students, casual employees, temporary employees—anyone who's not regularly employed full-time.

The employer then gives lists of employees. These fall into four groupings: Schedule 1 is full-time employees, according to the employer; schedule 2 is part-time employees, according to the employer; schedule 3 is employees laid off and not at work on the day application was made; schedule 4 is employees not at work on the day application was made and may be on leave, such as maternity leave etc.

You work all that out, but now we've got clause 1(3)(b). This is managerial. This is the case where the employer states that the manager supervises the administrative assistant, so the manager should be excluded; the administrative assistant supervises the secretary, so the administrative assistant should be excluded; the secretary supervises the clerk-typist, so the secretary should be excluded; the clerk-typist supervises the receptionist, so the clerk-typist should be excluded, and the receptionist sits by the filing cabinet with the personnel files in it and has access to information related to labour relations, so she should be excluded.

But you finally work all of that out. Then you have to deal with the jurisdictional group that's appropriate for bargaining. This is whether manual, office, clerical, professional and all the exemptions in the act. You finally work that out. Now you can take your count. Do you have 55% of the group left for the purpose of certification or do you have the 40% or 45% for the secret vote?

I hear many comments about the secret vote. When there are not adequate cards for certification but there are adequate cards for a vote, it's always been conducted secretly, in my experience, and it's always been conducted by the labour relations board. I get the feeling at these hearings that some thug is roaming around with a baseball bat, making people do things that they don't want to do.

Any organizer worth his salt will tell you that on application to the labour relations board, you always have surplus cards. So let this committee not pretend that 55 cards from 100 workers means something like automatic certification. The chances of that are almost impossible.

If this committee believes and the people in the province of Ontario believe that workers have the right to bargain their conditions of employment, then any amendments that this legislation makes to make it easier

for workers to organize is positive. That includes the right to single units, for example, full-time, part-time etc.

Thank you, Mr Chairman, for your time.

**The Chair (Mr Peter Kormos):** We have four minutes per caucus.

**Mr Steven Offer (Mississauga North):** Thank you very much for your presentation. There are so many areas to address. Just by way of opening comment, I'm sure you have followed these hearings and that those who are critical or have concerns with the legislation are not just those who might be found in the so-called business community.

We've heard concerns from local school boards; we've heard concerns about the legislation from businesses that are involved in the distribution of food; we've heard concerns about the legislation from local hydro services, from research facilities in universities, and I am sure you would not be characterizing those concerns with this legislation in that broad brush of somewhat—I think the words you used were “farm mongering rhetoric.” These are individuals who have come before the committee with some real concerns about the legislation, who are not just part of the business community. That's just by way of opening comment.

I'm quite interested in the area of organizing and the whole issue of a rep vote or secret ballot vote. It's quite interesting how the process has been so well outlined. It seems to me that has just set up a whole variety of obstacles as to whether employees wish or do not wish to be unionized, and it seems to me that the legislation will be, in the end result, on this one aspect basically measured as to whether it gives the employees the right of freedom of choice.

**1050**

What would your reaction be to a trigger point, not of 40% but of 20%? Let us say 20% of cards signed, that there would be full protection given to employees in the workplace against coercion and intimidation either at the hands of the employer or in fact the union rep, that they would get full notice that there is an organizing drive and what it means to them, that there would be a secret ballot vote conducted under the auspices of the labour relations board and then if those men and women in the workplace wished to be part of a union, let them say yes or no free from coercion or intimidation by a secret ballot vote. Lower trigger point, full protection against coercion and intimidation, full information, early notice. Your reaction?

**Mr Scott:** First, I'm still not beating my wife. I think the question is loaded. If you're suggesting that there's intimidation, you're wrong.

Second, in terms of the 20%, my response would be that this would be somewhat irresponsible and time-consuming. I would much prefer the opposite, where the number is realistic in approach, but the amendments that have been suggested in terms of bargaining units can speed up the process. Remember, the cards, when signed and filed with the labour relations board, are signed in privacy by the worker. Only the labour relations board has access to the names. Signatures are matched by the labour relations board, and if there are adequate numbers that want to be certified, why delay the process?



**Mr Elder:** I'm a bit puzzled by the emphasis on secret ballot votes in discussing these amendments, because they're not something that's new in these amendments. The proposals do not create a new situation where employees are certified without a vote. That's been the situation in Ontario for as long as I can remember. It's the situation across this country except for BC which, under the anti-labour amendments of the Vander Zalm government, instituted secret ballot votes.

There's a reason for that. The reason is that despite the promises you offer, no one can provide real protection to workers against intimidation by their employers. That's a fact of life; that's what happens. That's why across Canada, except for BC, unions are permitted to certify by presenting adequate membership evidence.

**Mr Robert W. Runciman (Leeds-Grenville):** I've personally worked on both sides of the fence, both as a union president and a contract negotiator in management. I was involved in a number of strikes on both sides of the fence as well. There are some elements of this legislation that I can be supportive of, but the total package, I think undoubtedly, is unfortunate, to say the least. I've been asked by a number of people whether or not people presenting who have valid concerns about this are going to have any impact. Certainly, we're not optimistic that's the case.

You wonder why we've heard the chamber of commerce here today, the video and others suggest that it's a payback to organized labour for the years of support while the NDP has been in the wilderness. I think it's a little more than that. I think there's a long-term scenario here. Maybe I'm overly suspicious about these things, but I'm curious about asking the CUPE representatives if their union, on an annual basis, contributes to the NDP. Do you?

**Mr Ryan:** Yes, we do.

**Mr Runciman:** Is there an automatic checkoff? Is that part of it?

**Mr Ryan:** No, whether or not to donate is left up to each individual.

**Mr Runciman:** I wonder, when your organizer suggests that this legislation is making it easier for workers to organize—and I don't know if this just simply applies to public service unions. I remember a case in the Supreme Court a couple of years ago, I think Merv Lavigne from northern Ontario, appealing the automatic checkoff where a portion of that member's dues went to support the New Democratic Party although he personally had great difficulty with that concept.

I just wonder, Mr Chairman, simply putting this on the record, whether there's a significant ongoing benefit to the New Democratic Party by seeing more people organized, because organized labour, at least the leadership of organized labour, in this province has tended to support the NDP and to support it in a very significant financial way.

You talked about fearmongering. The only facts we've heard before us in respect to the impact on the economy is the Ernst and Young study, which shows close to 300,000 jobs being lost, and you've accused these people of fearmongering. I'm wondering why. Certainly CUPE has the resources, organized labour in this province has the

resources, to conduct an impact study if the government is refusing to do it, for whatever reasons. Why haven't you conducted an economic impact study?

**Mr Ryan:** I guess we deal with realities. We deal with working men and women on a daily basis. We know the causes of the loss of jobs in this province; we know why they're taking place. We look at the policies of the Mulroney government, supported by the Tories in this province. We watch the investment of large corporations, such as General Motors, and we know that these people are making these heavy investments at a point in time when a major discussion and debate is taking place in the province surrounding the changing of the labour laws. They know it's inevitable that these labour laws are going to come into full force, yet they still pump billions of dollars into the province, so we don't really necessarily share your view that Ontario's a bad investment.

**Mr Runciman:** I know—

**Mr Ryan:** Excuse me a minute. Will you hold on a second? You'll be here for the next four years. I've got 15 minutes, and you asked me a question, so please allow me to answer it.

**Mr Runciman:** You're not responding to that question.

**Mr Ryan:** You asked me a question about fearmongering. Well, let me tell you about fearmongering, sir.

**Mr Runciman:** Mr Chairman, I asked a very specific question and this gentleman is obfuscating.

**The Chair:** I appreciate that, Mr Runciman.

**Mr Ryan:** Could I please answer the question?

**Mr Runciman:** I asked why your union has not—

**The Chair:** I appreciate your concerns, but it remains that we have to move to Mr Wilson.

**Mr Gary Wilson:** My question in part relates to this as well, because we're looking for balance here in this legislation, yet we have a question about where our party gets its money without the complete explanation of where the other parties get their money from, and just the process that happens here.

**Mr Runciman:** Ask the chamber. Go ahead, ask the chamber.

**Mr Gary Wilson:** What I want to find out here is from Ms Morris, who raised the issue of what workers have to face if they reach a situation where they democratically decide that they're going to go on strike. The submission by the group before us, that is, the chamber of commerce, suggested that the benefits of our country, which we all agree are magnificent, and it's been internationally recognized that this is a good place to live, but these benefits have been derived from the business point of view.

I'm just wondering what your thoughts on that matter are. Have workers got any views about what it means to work to produce decent living conditions and whether workers should share in that and whether they shouldn't have the opportunity to democratically form organizations that will support that kind of standard of living?

**Ms Morris:** That's quite a large question, Gary. Very briefly, speaking on behalf of the approximately 4,000

people in Kingston I represent, I'd have to say, number one, we want to work. We want to do the best job we can do. We want to make a decent living, a decent wage, to look after our families, we want benefits in terms of medical etc, and I feel we certainly give the employers back what they have hired us for, a good productive day, a good product or service.

In my case, I'm a public service worker. Yes, we do want our say in it. We elect our leaders to come here today and make a presentation to the committee and we elect representatives to form hearings such as this and come out and listen to the people. I think yes, I feel very good about saying I think we do want what is fair. Basically, all we want is fairness.

**The Chair:** Briefly, Mr Hope.

**Mr Randy R. Hope (Chatham-Kent):** Impact studies are hard to do when you're talking about attitudes, and attitudes are hard to get at impacts, but my question is, this morning I had the opportunity of being out front talking to some of the workers who have been out on strike for some time now, and it's amazing that a lot of them made reference to their families. Not only are we affecting workers, we're also affecting their families and the children.

Being as you're in here today as a spokesperson on behalf of those workers who have been out on strike—and I guess replacement workers are being used—I would just like to see if, in your own comments, you'd give us some kind of flavour of how these people are being hurt and the corporation you work for is not being impacted one bit.

**Mr Martin:** I'd like to answer that for you. At one time, yes, I think we all kind of agreed on negotiations. At one time we could shake your hand, go away and we would both honour that. I think that's slipping away now, and it's very hard in this strike since I've been out to see other contractors doing our work. That's hurting our families and hurting the guys. I try to run a very peaceful strike, no violence, no nothing. When you're at the table, that's where I believe any problem can be solved.

1100

By now, the summer came on and they're using students and everything. This is why we believe in the NDP to make this law. It gives us some power. Right now we've got no power. They can use everybody. When you've got a person standing up and saying, "I'm winning this battle," he's right, because he can hire anybody he wants to do our work and the work is being done. That's very hard to take.

As a president for a long time in the city of Cornwall, I always believed in sitting at the table and negotiating man to man. We are not asking for anything new. We're having a battle right now just to keep what we've got, and that is very hard.

Now there's a person who just went into a position where he was just elected. Maybe he doesn't know all the background and what he's handling and maybe he can't handle this, so he turns to contractors, students and everybody else to do our work, and he doesn't know the scapegoat to use to get out of his problem. That's very hard to take.

**The Chair:** Thank you. I want to say thank you to CUPE, the Canadian Union of Public Employees, for making a valuable contribution to this process, and thank you to the people who are spokespeople today on behalf of that organization. We're grateful to you. Take care.

#### ONTARIO HOTEL AND MOTEL ASSOCIATION, EASTERN ONTARIO REGION

**The Chair:** The next participant is St Lawrence and Rideau Lakes Hotel Association. Would those people please come forward, have a seat, tell us their names, give us their titles, if any, and proceed with their comments and submissions. We've got half an hour. Please try to save the second half for comments and exchanges. Go ahead.

**Ms Valerie Nicoll:** The presentation is actually very brief. Ladies and gentlemen, I'd like to thank you for taking the time to listen to this presentation on behalf of the members of the Ontario Hotel and Motel Association. I'm here to represent the eastern Ontario region, which makes up a substantial number of the 1,200 members in the hospitality industry and covers accommodation and food and beverage services. We currently employ approximately 300,000 people in this province's hospitality industry.

The issues presented, therefore, by Bill 40 are of paramount importance to the small family-owned and -operated establishment, as well as the large corporate-structure hotels with several hundred bedrooms, but with the same implications for both: the difference between a thriving, flourishing operation and doing marginal business. The impact of the current draft of Bill 40 serves only to add to an industry already hit, like all others, by recessionary times, high taxes, escalating wages and benefits packages and an ever-decreasing market share.

Contrary to what some unions believe, there is and always has been a vast majority of employers, especially in the hospitality business, who have always regarded all of their employees as their most valued asset and therefore provide fair and equitable treatment to them, regardless of status and union or non-union. We recognize that without people, our industry will cease to exist. It is therefore foolhardy from every standpoint to set up an adversarial role between employer and employee or union and management.

We further recognize that unions are a fact of life, and in operations where unions coexist with us, they are there at the request of the staff for whatever reasons. In other words, employees had and have the right to choose.

Under the new legislation, the rights of the individual are at best questionable. In an organizing campaign, shouldn't each individual have the right to choose whether or not he or she wishes to belong to a union? Why will some of the people be allowed to determine the fate of all employees, which under the new legislation has been expanded to include part-timers, on such a personal issue involving the individual's wages, benefits, scheduling, hours of work etc?

As freedom of choice is a matter of conscience, we fail to see the purpose in doing away with secret ballots. Allegations of intimidation on both sides only support the need for secret ballots.



Why further reduce the requirements for union certification from some semblance of choice—a 55% majority—by taking away the thought process that should transpire through a minimal payment of \$1, the right to revoke a membership card and to petition against the union's application? We may only logically conclude there is indeed a bias in this legislation to promote the unions', and only the unions', agenda, regardless of what anyone else wants.

What about the operator who is struck? Where is the right to choose by each individual as to whether or not he supports a work stoppage or his willingness to cross a picket line? What happens to the individual's rights and freedoms in these situations?

In addressing the anti-replacement-worker provision, we would point out that, unlike other industries, our commodities, rooms and meals are sold and revenue generated on a daily basis. A room not sold, a meal not served is revenue that is lost for ever and cannot be recouped. In the past, where replacement workers were used, an operation did not continue in a business-as-usual manner but at least hopefully was in a position to cover its overheads.

By disallowing the use of replacement workers, is it the mandate of this government to force even more businesses to close their doors, perhaps permanently? We do not believe this to be the intent. However, under the new legislation it is conceivable. At the present time there is recourse to address bad-faith bargaining, but where is the rationale for imposing undue hardship, in particular on those smaller establishments that cannot afford a closure of any length of time?

In larger establishments, we are often asked by clients if we are unionized, and when does our collective agreement come up for renewal? No conference organizer wants to find himself asking groups of 400 and 500 delegates to cross picket lines to access their meeting rooms. So believe me, ladies and gentlemen, when I tell you that we are cognizant of the impact of a strike on business volumes already, without having to shut down the operation entirely.

Consider for a moment the implications to all business and industry in allowing third-party picketing. Many operators, especially in recent years, have built their business adjoining office complexes and shopping malls. We respect our employees' right to strike and must bear the consequences of our failure to reach agreement with the union's representatives. Why, however, will unrelated business operations be subjected to the strike action, and does this lead to those businesses bringing further pressure to bear on the picketed employer? Let's face it: Given the present climate, especially in the retail trade, there are few, if any, independent merchants, or chain stores, for that matter, that can withstand any further interruption of trade or lessening of business volumes.

The aforementioned are of particular concern to the 1,200 members of the Ontario Hotel and Motel Association. It is not to imply that many members do not take issue with other parts of Bill 40. In the interests of time, however, we have concentrated only on these.

On a more personal note, as a human resources professional for 15 years, I would like to suggest that there is in fact room for negotiation and, in some cases, changes to

the current labour legislation. Those changes, however, should endeavour to keep the playing field as level as possible. At present the amount of controversy over Bill 40 and the labour reforms has only served to open the gap wider between employee and employer during a time when the question of unity is paramount in this country, never mind the province.

We commend the government for patiently listening to these many presentations over the past few weeks and ask only that due consideration be given to the many concerns and questions that have been raised over the labour reforms act, and that we don't act in haste and repent in leisure.

**The Chair:** Thank you kindly. Mr Runciman, six minutes, please.

**Mr Runciman:** On our agenda it indicates you're a representative of the St Lawrence and Rideau Lakes Hotel Association.

**Ms Nicoll:** I don't know where that's from. I actually represent the eastern region of the OHMA, from Kingston right over through Ottawa.

**Mr Runciman:** What's your total membership, 1,200?

**Ms Nicoll:** That's 1,200 in the province, with 300,000 employees. In the eastern region, we have approximately 23,000 employees.

**Mr Runciman:** In the eastern region, you have 23,000. How many of those would be organized currently?

**Ms Nicoll:** I couldn't tell you, but I would hazard a guess that the majority of them would be unionized.

**Mr Runciman:** What's your track record been like in respect to man-hours lost to strike? Have you got a pretty good record in this respect?

1110

**Ms Nicoll:** I'm only reasonably sure of the area I'm currently in, which is the Ottawa-Carleton district. It's been not bad, mostly because in the Ottawa-Carleton district there are eight hotels that negotiate together. You can well imagine the impact of a strike: If one goes on strike they all go. In fact, there was one the last time they bargained maybe two years ago now, and it only lasted a few days because the impact is too great. It's eight hotels out of the city.

**Mr Runciman:** Why do eight hotels negotiate together?

**Ms Nicoll:** That's a very good question. We're not one of them, so I'm unable to answer that.

There is a lot of pressure brought to bear, sometimes, by the various unions. We have three unions in the particular property that I work in, one of which is the Canadian Guards Association. Every time we bargain they ask to bargain collectively with the property we're attached to and the one that's next door to us, simply, I think, because it's easier for the unions. It also means, to a certain extent, that there's safety in numbers as far as the union representation is concerned. But it certainly doesn't make any sense from an employer's perspective.

**Mr Runciman:** I'm just looking at my own region. I suspect that most of the people who belong to your association are not unionized; that would be my experience. Perhaps in Ottawa and environs they are unionized, so this legislation perhaps would be of more concern to the non-unionized sector than to those currently working with organized labour.

You've mentioned some concerns, and being in this business, in the current economic environment, I know the problems you're all facing with respect to a variety of things: minimum wage, for example; the heavy tax load that makes you not as competitive as you might wish to be. Are there any other specific concerns you perhaps didn't have time to incorporate in your brief that are of concern to your membership?

**Ms Nicoll:** I know that a lot of the smaller, non-union operators are concerned with the certification processes, the organizing campaigns, the legislation that covers those areas. I would again suggest that in fact there's concern over most of the legislation. But unfortunately, given the time restrictions—and that may be one of the reasons for the mixup here—this was hastily put together because there was no time slot available in Ottawa. But I would suggest, as I say, that they are in fact concerned about most of the legislation.

**Mr Norman W. Sterling (Carleton):** Yesterday in Ottawa we had a presentation by the association for security guards. The legislation provides that if the labour relations board approves, the security people within an establishment can become part of the same bargaining unit as the other workers. Coupled with that, of course, the rule that you can't replace workers puts the hotel in a very vulnerable spot if struck. You are faced not only with not being able to replace administrative staff, cleaning staff and food workers, but you're faced with not being able to replace security people. Has there been very much alarm or concern about that?

**Ms Nicoll:** Quite a bit of discussion. Our understanding is that the legislation does provide for a proven conflict of interest of guards belonging to the same union, and I think right now that's under a lot of discussion. I know several of the legal firms have done a number of seminars on all this legislation. That's been one key area that has come up very often among the hotel and motel association: especially, as you pointed out, the part of the legislation that addresses not being able to use replacement workers. So I think there'll be a strong lobby, particularly from properties like my own, which are attached to other centres and could pose a major problem if security were part of the larger union. We have three unions in our property, so it would be a problem.

**Mr Sterling:** We are going to put forward an amendment to this legislation. Our first instinct is not to put any amendment, but one of the amendments we would put forward is that if the OIRA finds they are the same bargaining unit, we would like an amendment which would permit at least the replacement of security personnel at the very least, because it could be a danger not only to the property owner but to the public. That's particularly true in

places like construction sites and large recreational areas, where you just can't lock the door, so to speak. So our party will be putting forward an amendment during the process to at least allow replacement workers for security people.

The other aspect of it too, of course, is that the answer I got from labour yesterday when I posed that question was, "Well, management can provide the security." I can imagine situations where management has to be at the gate, and I don't know how that would lead to smoother relations and the progressive conclusion of negotiations if you had the boss standing on one side of the gate and the picketers on the other side of the gate because there is no other provision for security of the gate. I just don't think it makes sense.

**Ms Nicoll:** There's that issue, but there's also a safety issue. Some management people are trained in emergency responses, fire and safety, things like that, but the security people are fully trained in all of those aspects. So it would pose a safety hazard as well.

**Mr Gary Wilson:** Thank you for your presentation, Ms Nicoll. You say you are a human resources professional. Is that what you're doing now?

**Ms Nicoll:** Yes.

**Mr Gary Wilson:** First of all, maybe more generally, I'd like to say that in the Kingston area we're perhaps more aware than anybody of the importance of having a vibrant hospitality industry. I was lucky enough to have a couple of weeks to travel to the east coast, and we stayed in a number of establishments. My family and I were often aware of the importance of having well-trained staff in the hotels and motels where we stayed, because it made our stay a lot more pleasant and helped us to enjoy the area. I think that is one of the objects you would have uppermost in your mind as well. With that in mind, I'd like to ask you what you mean on page 2 of your brief, where you refer to the personal issue involving the individual's wages, benefits, scheduling, hours of work etc. What do you mean by "personal" matter?

**Ms Nicoll:** I talked to a number of employees, not just in the Ottawa region but also in the Toronto area, because we're part of a corporation, and my background was from Toronto; I worked for two properties in Toronto before I moved to Ottawa, so I did a lot of contacting of past employees and current employees in some of the other properties I'd worked in. It would appear there's a bit of a shift. This has become, rather than a collective issue with employees, much more of a personal thing, because one of the responses we got most often was the fact that people simply can't afford to go on strike, for instance.

We have issues in our own areas where on the Quebec side there have been a number of strikes lately, and it has affected a lot of our workers who come from the Hull and Gatineau areas. Their spouses, brothers, sisters, whatever, have been on strike for a fairly lengthy period, and financially they simply could not have afforded this. It seems to have become much more a personal issue than it was in the past. I have no idea what strike pay is these days, but it doesn't appear that it covers any of the expenses.



**Mr Gary Wilson:** Exactly. That point was made by one of the members of the group that preceded you. She is a unionized worker, and that's a very serious issue with them as well, obviously; it means their livelihood is at stake. I think that is one of the things that is taken into account here in the Labour Relations Act, that one of the factors is that workers themselves face this very severe hardship through a strike. That's one of the things that acts against striking and creates the balance. I think you would agree, then, that for workers themselves to go on strike means there's a very serious issue involved.

1120

**Ms Nicoll:** Absolutely. But the contentious issue for us in that is that unfortunately a lot of the workers don't seem to feel they have a choice in some of these situations. I've dealt with a number of unions over the year and found most of them and their representatives to be very reasonable, whether you're negotiating or sitting down at the weekly meetings with them, but there are a number of people in this province who are far from reasonable and get involved in actions that the employees simply don't support.

**Mr Gary Wilson:** I think you'd also agree—and certainly from the submissions this committee has heard—that exists all over. It's not just one side that's unreasonable.

**Ms Nicoll:** Sure I do, absolutely.

**Mr Gary Wilson:** In fact, some say that's why unions are there in the first place, that some of the employers are less than model employers.

**Ms Nicoll:** I absolutely agree.

**Mr Gary Wilson:** I think you'd also agree that as a member of an association you've got to meet to make decisions about how you're going to act. You said you did have items that the association wanted to present here but realized there's limited time, so you had to make a decision. I assume there's some mechanism by which you determine which ones you'll come to; maybe you even vote on the kinds of issues. I think you would agree, then, that other individuals who have collective interests can come together in groups such as unions and democratically decide on the kinds of things they would like to see, and then put it forward in a reasonable manner. Already you've said that you've been involved in productive relations with—

**Ms Nicoll:** A number of them. I'd also like to recommend that if it is going to be a large conference, our hotel is certainly open to having them.

**Mr Gary Wilson:** Exactly. For these things to go off smoothly, as I say, it helps to have well-trained employees. When you think of an issue like health and safety, you might agree that unions have done a lot to ensure the safety of their members. A worker's health and safety on the job is a very personal thing. Getting together, they see how they can improve that safety. I would say it even helps the employer to have various risky things in the workplace brought to light and remedial steps taken.

**Ms Nicoll:** Definitely.

**Mr Gary Wilson:** In that sense, we think this legislation will promote participation in the workplace and make for more productive workplaces. I would like to think too that the workers in the hospitality industry would have the wherewithal not only to support their day-to-day life but also the opportunity to travel, because if they're in the position of being a traveller they get to see what kinds of conditions make for a more meaningful trip, and when they come back to their workplace that can also work to the benefit of the industry.

**Ms Nicoll:** One of the biggest benefits of working for a corporation like the one I work for is that a benefit of all employees, regardless of their status, is up to 10 complimentary nights a year anywhere in the world we have a property. So they do get to see first hand how other areas are operated. I'd also like to state for the record that one of the reasons this province is so successful in the tourism business is because of the people here. We enjoy a very high standard of service excellence in this province.

**Mr Gary Wilson:** It's good to hear that, and of course that's what we want to promote. Thanks very much. I think Mr Hayes might have some questions.

**The Chair:** You left him 30 seconds, Mr Wilson.

**Mr Pat Hayes (Essex-Kent):** I'll try to do it very quickly. Thank you, Ms Nicoll. You mention on the first page, "The impact of the current draft of Bill 40 serves only to add to an industry, like all others, already hit by recessionary times," and you mention high taxes, escalating wages and benefits and decreasing market share. Although you mentioned the high taxes, you didn't mention the GST, the high interest rates and the inflated Canadian dollar that have certainly hurt you.

But I have another question and another angle here. How do some of these people, when they come from another country or another province and they come down Bay Street and see these great big billboards that depict—you know, Bob Rae is compared to Karl Marx and things. Don't you think this would adversely affect your business? What kind of image would those people get from that kind of tactic?

**Ms Nicoll:** Speaking only as an individual rather than as a representative for the association, I think people make up their own minds, regardless of what kind of advertising campaign is done, for any reason, for any kind of marketing. It is a marketing tool, obviously, on behalf of the employers and businesses who are quite concerned about this legislation, as I am. In my personal view, this piece of legislation simply makes my job a lot harder and widens the gap between the employer and the employee.

As I said, it's like any advertising. Maybe I'm a little different, but I look at it that I will still make up my own mind over whether or not I see Bob Rae in that light, and in fact this particular piece of legislation.

**Mrs Joan M. Fawcett (Northumberland):** Thank you very much for your presentation this morning. I think we got an insight into the impact on tourism. We certainly have heard from many people across the province, and yours adds to that.

Is there any indication as to just how long it would take under this legislation, if a place like this were struck, even a smaller tourism business, before it would absolutely mean that the place went down? We've heard there are going to be a lot of jobs lost. How serious is it?

**Ms Nicoll:** I think it's very serious. It doesn't matter whether it's a small or a larger operation. For the smaller ones, the tendency would be to go under a lot quicker, obviously, because they don't have the resources or the capital available to them that some of the larger hotels and corporations do. Oddly enough, we had a conference call with our counterparts across Canada yesterday and, without exception, our hotels are looking at a worse year next year than this one, and we work for one of the better ones in the world. I would hazard a guess that if that's the way our corporation is looking, then the rest of them are looking at an even worse year than we are.

**Mrs Fawcett:** Have you thought of any way to change that particular portion of this bill, an amendment you might suggest, other than withdrawing it completely?

**Ms Nicoll:** Well, that would be my first choice. No. In fact, the HRPAC, the Human Resources Professionals Association of Ontario, has some recommendations and I support those recommendations, but today I'm here on behalf of the Ontario Hotel and Motel Association.

**Mr Dalton McGuinty (Ottawa South):** Thank you for your presentation. I wanted to touch on this issue of replacement workers and the impact it's going to have on your industry. We've heard from both sides that there are very few strikes. We heard as well that there are very few incidents of violence when there are strikes, which of course brings into question the justification for this banning of replacement workers in the first place. Also, I can add that we do have laws in place today prohibiting violence, assaults, threatening, intimidation. They're all of course found within the Criminal Code.

Bill 40 is going to become law. Let's not delude ourselves into thinking otherwise, because we'd be naïve. We are bound up in a lockstep process which is going to culminate in the passage of this bill some time in the fall of this year, so you will not be able to hire replacement workers. What I'm trying to get at now is the impact this will have on a hotel, and maybe you could describe it in terms of how it would affect a small operation and a larger operation.

**Ms Nicoll:** I think in terms of that particular piece of legislation, the small owner-operator might have a little easier time of it in the short term, simply because the volume of business isn't as great and you're not looking to replace 500 workers, or in our case 350 workers, if there is a strike. You would simply find yourself pitching in, doing the job of two or three people, in a much smaller operation. In a larger operation, in a hotel with 400 or 500 bedrooms, as I mentioned, you'd be looking to replace 300 or 400 employees during a strike, and much as we'd like to think our management team is great about leading by example and there isn't anything we wouldn't do, you wouldn't be able to keep that up for too long, depending on your volume of business.

I think the biggest pressure, however, would come from the volume of business you would lose because of the strike. You would have cancellations.

**The Chair:** The committee wants to thank you, Ms Nicoll, for your presentation on behalf of the Ontario Hotel and Motel Association. We're grateful for your interest in this matter and for your attendance here today. We appreciate it.

1130

#### PETERBOROUGH AND DISTRICT LABOUR COUNCIL

**The Chair:** The next participant is the Peterborough and District Labour Council. If the people speaking on behalf of the Peterborough and District Labour Council will please come forward, have a seat and tell us their names and titles. Written submissions have been distributed to members of the committee. They'll form part of the record by virtue of being made an exhibit. Go ahead, please.

**Mr Dean Shewring:** You've said this before.

Before I start, I'd like to assure the previous presenter that it's generally been the policy in the trade union movement to have conferences at union hotels, so we should assure her that there'll be plenty of business heading her way.

My name is Dean Shewring. I'm the president of the Peterborough and District Labour Council. With me, and he will be joining me in the presentation, is Rob Freeman, who is on the Ontario Labour Relations Act committee of the labour council and a delegate to the labour council and is from Canadian Auto Workers, Local 1987.

The Peterborough and District Labour Council is pleased to have this opportunity to present our views on the proposed changes to the Ontario Labour Relations Act. On behalf of the executive and delegates of the labour council, I would like to thank the members of the resources development committee, holding these hearings on Bill 40, for allowing the viewpoints of worker representatives from Peterborough and area to be heard.

The Peterborough and District Labour Council represents Canadian Labour Congress-affiliated local unions in Peterborough county, plus Ormewood. Our labour council represents over 5,800 trade union members in 41 affiliated locals in both the public and private sectors. The goal of our labour council is to "promote the interests of its affiliates and generally to advance the economic and social welfare of workers."

The labour council submission is designed to focus on those Bill 40 proposals we feel would have the most significant impact on working people in our area. In some cases we will be briefly commenting on other important aspects of the Ontario Labour Relations Act within the scope of the reform proposals.

We understand that these hearings are the second round of hearings being held on changes to the OLRA. The labour council is somewhat disappointed that these hearings weren't held in Peterborough during this round, as we know of about half a dozen additional labour-related submissions from the Peterborough area whose authors would have liked to speak before this committee. The Hotel



Employees and Restaurant Employees International Union, Local 604, United Electrical, Radio and Machine Workers, Locals 524, 527 and 540, Neil McMahon from the Amalgamated Transit Union, Local 1320, Oliver Hodges of Workers Equity, and Canadian Auto Workers, Local 1987, all informed us of their intention to make presentations if offered standing. This would have provided an opportunity for more personal testimony before this legislative committee on how workers in Peterborough and area would be directly affected by the proposed changes to the OLRA. There are many stories to tell about unjust treatment, the high cost of the grievance process, scabs, first contracts, petitions, Ontario Labour Relations Board procedures, access to malls, exclusions, reforms to help part-time employees and bargaining rights. There will be several written submissions involving many of these areas which will be sent to the committee after the hearings.

The business lobby has been particularly unreasonable in its response to proposed changes to the OLRA. There was a brief campaign by the Greater Peterborough Chamber of Commerce during the week of July 6. It was a very negative campaign which spent a great deal of money on full-page ads and radio spots, but this "Information Week" offered little in the way of information to the public on the actual proposed changes to the OLRA.

The results of their efforts were one or two ill-informed negative letters. One of those two or three negative letters I did see involved the fact that this person thought Bob White and Bob Rae were involved with a communist conspiracy involving these labour relations changes. That was sort of the tone of some of the comments.

Interjection.

**Mr Shewring:** No comment on that one yet.

There were negative editorials in the two local newspapers and many actual spontaneous letters in support of labour law reform. What I mean by that is that while the labour council urged members to write, many of those letters that appeared were not as a result of any of our urgings, so they reacted to the negative campaign by the chamber of commerce. Copies of several of these letters are attached at the end of this brief, as well as several clippings from local newspapers related to our response to the Ontario Labour Relations Act.

The labour council feels that many of the arguments used by business lobby representatives are spurious. For example, the question that these changes would cause a loss of confidence by the business community and, subsequently, a significant loss of jobs in the province is being used as a scare tactic. Any apparent loss of business confidence can be traced directly to the highly charged, negative campaign being conducted by the business lobby. Given the opportunity to examine the facts, most businesses will soon see how little impact these OLRA reforms would have on their operations.

It should be obvious, given the restructuring of the world's economies, that it would make a lot more sense for business and labour to cooperate in dealing with these and other matters, but it seems that this level of communication in labour relations has yet to materialize in Ontario.

The labour council, generally speaking, supports those changes to the OLRA proposed by the provincial government. We consider increasing the categories of workers who may choose to join unions, access to third-party property, elimination of membership fees and petitions, consolidation of bargaining units, anti-scab provisions, successor rights, OLRB interim orders etc, as positive aspects of Bill 40.

We think, of course, that the government should go even further.

We agree with the Ontario Federation of Labour that the language in the proposed purpose clause and throughout Bill 40 should be strengthened and unambiguous. It should be stronger concerning the value of trade unions in the workplace. The addition of the further objective in the purpose clause "to recognize that effective trade union representation is necessary to advance equality between employees and employers" would be a good start.

The labour council applauds the expansion in the categories of workers eligible to join trade unions of their choice.

We are concerned, coming from a largely agricultural area, that agricultural, horticultural and silvicultural workers may be excluded from some provisions of the act, particularly the right to strike. We feel that the vast majority of these workers are not essential in the same manner as firefighters, police and hospital workers, and therefore should have full bargaining rights, including the right to strike.

We agree with the proposals to eliminate the \$1 membership fee and anti-union petitions after the union has applied for certification.

Among many arguments against the membership fee we would like to add that it is an institutionalized insult to working people. It implies that workers are too stupid to know what they are signing without paying this money.

The anti-union petition is, and has been used as, an intimidation tactic against workers. When workers are confronted by such a petition they have to decide whether to sign it and state they are against the union, or not sign it and reveal they are a supporter of the union, opening themselves up to harassment and intimidation.

The following is a statement from one worker who has faced the daunting task of trying to help his fellow workers organize themselves into a union, and I'll turn this over to Brother Freeman.

**Mr Robert Freeman:** This was my personal experience. It happened a number of years ago, but I have no reason to believe that it's any different today than it was then.

Trying to join a union or organize your workplace can be one of the most stressful, painful, fearful, angering and frustrating experiences workers may put themselves through. The thought of being isolated is by far the most powerful. That fear is realized in the observation of any private conversations, which may produce an unfriendly glance or a laugh. I can give you an account of my own experience, for I have twice been fired for simply wanting to join a union.

In the first instance, I naïvely approached a fellow employee regarding our joining a union. The employer got

wind of my scheme and a week later I was unemployed. However, during my last week of work I was isolated from the other employees and no one would speak to me.

On my second attempt to organize, I was a little more cautious. I knew from the beginning that my employer was dead set against unions. I now found myself having to sneak around, write down names from the punch clock and then laboriously go through the telephone book to find the addresses and phone numbers of as many employees as possible. These I would pass on to the union organizer. He would contact each in an attempt to find those who were sympathetic. During this period, word was spreading through the shop, creating an atmosphere of fear, tension, guarded comments and, for some, humors.

The organizer decided to hold a meeting and notified the employees by passing out a leaflet at the plant gate. The organizer, myself and two other employees who were sympathetic showed up. Also in attendance were three employees, officials of the company union, who showed up to take down names. One week later I was unemployed again, the only one dismissed.

1140

In both of the above examples, workers were denied a choice.

The anger I felt when fired was intense, but the frustration was even more difficult to bear. I knew more than ever after those experiences that management cannot be trusted and that unions are necessary and must be a legitimate part of any workplace, for being subordinate to the whim of any employer denies workers their dignity and security.

**Mr Shewring:** The labour council would like to see even more protection for workers during organizing campaigns. The proposals provided last year by the labour representatives to the labour law reform committee, while perhaps a bit more innovative than the government was prepared to accept, did involve a very important principle. Organizing campaigns should not have to be conducted in secret, and workers should be able to choose whether or not to join a union without having to fear reprisals from their employer.

Access to lists of employees for organizing purposes is an important issue for labour as well. The government has not taken this opportunity to open up and legitimate union organizing. The recommendation by the labour representatives on the labour law reform committee was that "an obligation be inserted in the act requiring an employer, upon an application for certification, to immediately forward to the trade union a copy of the list which must be provided to the board." Access to such a list would help when determining the actual structure of a potential bargaining unit. We would like the government to take another look at this important issue.

The use of replacement workers—scabs—by employers over the years has resulted in most of the violence we've seen associated with strikes. The fact that employers have been able to take advantage of downturns in the economy to exploit desperate workers during strikes is a situation we would like to see ended as soon as possible.

This brief includes a copy of a letter advertising a company's strikebreaking services. The fact that it was sent to the national office of the Canadian Union of Postal Workers goes to indicate the level of discretion and lack of sensitivity employed by these outfits. The sooner such companies suffer from a cutback in business, the better for all concerned.

This labour council and the labour movement in general feel that the anti-scab provisions in Bill 40 are a significant step towards reducing future labour conflict in this province.

That being said, there are still several significant loopholes in the current proposals which bear examining. When there are provisions that an employer can shift bargaining unit work to another geographic location, to use just one example, we feel that the anti-scab provisions will not be very effective. We would like to see the government remove some of these obvious loopholes in the legislation.

Before I conclude, I'd like to add a personal note. I myself am a part-time employee with Canada Post, so I'm under federal legislation. The provision being offered to merge part-time and full-time into the same bargaining unit, from my point of view, is one of the best recommendations. It's one that hasn't been mentioned very often. It is one of the best recommendations in this bill, as someone who has experienced the fact that I've always been in the same bargaining unit with full-time employees.

In fact, when I first joined the post office we were in a separate classification from full-time employees. After the 1975 strike—that was a good one; sometimes we have good ones—we were in the same classification. We were all postal clerks, in effect. Before, we were part-time postal helpers. The attitude change towards the part-time employees, the dignity that was built up in the workplace as part-time employees, with full-time employees, was marked, both from management and fellow workers. That's one thing.

Another point is the fact that over the number of years that I've been at the post office dealing with the bargaining that has gone on for contract, the fact that part-time employees have been in with full-time employees has significantly added to the number of rights and benefits that part-timers have received. I can't list all the benefits we have, but I can just say that the few we don't have compared with full-time employees in the post office currently include the fact that our calculation for vacation leave is slightly different—it's equivalent, but it's done in a different way—and that part-timers in the internal section are not classified to work in the wicket section.

Until recently, one other difference was that we didn't get pensions for part-timers, but that's been changed with the last contract and with the change in the federal government, so pensions are now going to be available. So just from personal experience in the federal field where part-timers and full-timers are in the same bargaining unit, we find this has been a very positive impact on part-time workers in particular and the atmosphere in the workplace as well.

One point I want to make on that as well is that in my local union we have four members on the executive. Two are part-time workers. So the change has been made.



To conclude, our labour council has only been able to touch on the many questions raised by this legislation. We feel there are several improvements that could be made to Bill 40, and we hope this brief and others submitted by representatives of the labour movement will be examined by your committee with care and consideration. We'd like to thank the standing committee on resources development for taking the time to hear our views on legislation which is so very important to our affiliated union locals and to the people of Ontario.

**The Chair:** Mr Wilson, four minutes, please.

**Mr Gary Wilson:** Thank you very much for your presentation. Especially the personal anecdotes are very helpful in understanding the need for this legislation.

**Mr Shewring:** I couldn't quite figure out how they fitted into the brief, so that's why I did it separately.

**Mr Gary Wilson:** Well, you did it very effectively, and even the one that you put in the brief by Mr Freeman was very good. There are a couple of things I'd like to raise, especially with your experience in the post office, where it's felt that the level of cooperation between management and workers isn't always the best.

**Mr Shewring:** A wonderful understatement.

**Mr Gary Wilson:** I'd like you to elaborate on how you see this legislation helping in the cooperative effort of workers and management which you mention in your brief here.

**Mr Shewring:** It won't help us in the post office obviously, because it's provincial legislation. However, it's always been my experience that cooperation has a lot to do with some of the local people you're dealing with; that's an important thing. It almost in a way doesn't matter what the legislation says in some respects. If there's a good atmosphere in the workplace in the first place, then you're not going to have any problems. It's the same thing. It's just that legislation is there to help and to provide guidelines and, in some cases, rules. So it's difficult to quantify that in that respect.

**Mr Gary Wilson:** I was just thinking of the broader issue, though. Regardless of, as you say, what the legislation says, there's still the atmosphere in the workplace that's so important. From your own experience again, what difference does being in a union make to you? How does it affect your being in the workplace as far as what you have to bring to your job?

**Mr Shewring:** Just being a member of a union?

**Mr Gary Wilson:** Yes, that's right.

**Mr Shewring:** It's almost incredible in a way, because it's the difference between being a serf and a person in a lot of ways. I have worked in other locations without unions, and you're just a commodity. In fact I believe there was a wonderful quote in the Toronto Sun that was used where they compared workers as being commodities in effect; a worker is just another commodity, another thing to be manipulated.

One of the reasons there are trade unions is that workers are not commodities; workers are people with dignity and rights. If people are treated with respect, then there

never is a problem; unions, for me, front and centre, are about respect. Sometimes the respect is learned over time, and it takes a while. When you deal with management one on one on equal footing, union and management, the respect is built up.

**Mr Gary Wilson:** And you think that respected workers are going to be more productive, is that it?

**Mr Shewring:** There's no question about that. If you're working in a unionized workplace where the union and management have consulted on many issues and worked together on many issues, employees tend to stay there for one thing, because they know that they're probably going to be paid better than in other places and they're going to be treated better than in a lot of other places. So there is a tendency towards more production, I think, just from that alone.

1150

**Mr Gary Wilson:** I'd also like to ask you, Mr Freeman, how you came to be fired, because I thought that was against the legislation.

**Mr Freeman:** This happened a number of years ago, at least 25 years ago. I think there was legislation in place at that time, but I don't think it had the teeth it may have today.

**Mr Gary Wilson:** So that suggests there's an equal balance of power there to begin with, that you can face the threat of being fired, at least, and that it can actually happen. Did you get your job back?

**Mr Freeman:** No, I didn't. I think the threat of being fired is present all the time whether you have a union or you don't have a union. I think management's rights gives it that right to fire you any time it likes. The only alternative we may have is grievance and perhaps going to arbitration and maybe winning it there, but once you enter the workplace, democracy ends and individual rights that we hear so much about end as well.

**Mr Gary Wilson:** Do you think that could be corrected in some way?

**Mr Freeman:** Yes, I think the labour legislation does a bit to correct that, but I think it could go a lot farther.

**The Chair:** Thank you. Mr Offer.

**Mr Offer:** I'm asking this question and it's premised on the freedom of employees to choose in an organizing drive. From your experience, in your opinion, is there any example, any thought that in an organizing drive not only an employer but maybe in just some isolated instances the union organizing would engage in intimidation, coercion or misinformation?

**Mr Shewring:** Are you saying the union or the employer or both? I'm sorry, which?

**Mr Offer:** My question was: We have heard of instances of employer intimidation, coercion and misinformation; and in fairness, we have heard on occasion that it wasn't just one side, that there are examples where maybe in an organizing drive the unions were also. I'm asking this keeping in mind, for me, the protection of the workers to choose and a freedom of choice.

**Mr Shewring:** I think I get your question now. Personally, in my experience I have never, ever heard of any kind of intimidation on the union side of an organizing drive, certainly not in the province, from what I've read and heard.

The experience with my union, which is the only one I can really relate to, has always been fairly straightforward, honest and clear when it comes to organizing. In the federal sector we have a \$5 membership fee, which is kind of odd. In fact I'm in a situation where I'm hanging on to a card that is signed and I can't process it because they haven't paid the \$5 fee, which is sort of ridiculous. This is a casual employee who is hard to get in touch with.

But I can't see, when you're originally trying to organize a union, where an employee could be really intimidated. The employees have the opportunity to choose whether or not to sign a card, and if they don't sign a card, then they don't take part in that part of the process. So I don't see anything on that.

**Mr McGuinty:** Gentlemen, in your brief you make reference here to amending the purpose clause. You state you'd like to see it amended to include a statement to the effect that it would say, "to recognize that effective trade union representation is necessary to advance equality between employees and employers."

**Mr Shewring:** Yes, that's it.

**Mr McGuinty:** I've got to be honest with you; I take strong exception to that. I don't know if you understand how extreme that is. That would be like an employer sitting there and telling me that unions have no place in the workplace and that they cannot make a valid contribution to Ontario's economy. That's how extreme it comes to me.

You've got to understand that this is a severe indictment of all employers. Now employers are people; they're like you and me. There are good ones and there are bad ones. They're not pumped out of some infernal nether region to wreak havoc on the people of Ontario. They're like the rest of us. For instance, I wouldn't be so averse to seeing something that says, "Representation by a union is a valid option," but you are saying: "It is absolutely necessary. There's no two ways about it. If you ain't got a union, there's no fairness in the workplace." How can you hold to that?

**Mr Freeman:** Could I answer that question?

**Mr McGuinty:** Sure.

**The Chair:** Of course you can.

**Mr Freeman:** I think if you read the brief submitted by my local, we address that, and perhaps I can read it.

"Also a threat to the worker is the global corporate agenda referred to as 'competitiveness'...for it will dictate the relationship between employer and worker, with little protection for the worker. With 'competitiveness' as the agenda, an employer will, more than ever, be subject to the pressure of the marketplace and may not have the luxury of being 'good' to his or her employees. An individual worker employed in these circumstances will be completely powerless in determining or controlling his or her environment. It is a scenario where only those who can compete survive, and those who cannot are cast aside. This

is the world that neo-conservatism and big business has wrought. The only hope then for workers lies in their ability to unite and through their collective strength demand justice and control of their lives."

Perhaps I can read you this part:

"So it is not good enough to simply say or suggest 'government will not get involved or have a problem with business so long as business is good to their workers.' This attitude almost completely places the worker in a position of subordination to the whim of the employer. There is no democracy for workers attempting to earn a living in that environment; it is the source of frustration for many and its manifestations can be found in worker low self-esteem and alienation."

I quoted from *The Tyranny of Work* by James Rinehart:

"The precise character of subordination varies from workplace to workplace, from the arbitrary and paternalistic exercise of power in small shops, laundries and restaurants, to the impersonal bureaucratic authority of large factories. In small workplaces (usually not unionized) workers have little or no protection against the personal and absolute dictates of employers or supervisors."

**Mr Runciman:** I have just a few brief comments in respect to your presentation, and I appreciate your appearance here today and your coming all the way from Peterborough.

On page 3, you mention the results of efforts by the business community and I guess the chamber of commerce and you indicate one or two ill-informed, negative letters. I'm not sure what "ill-informed" means, but in any event, then you talk about many spontaneous letters in support of labour. I'm not sure how you reach that conclusion either. Maybe you phoned these people who were out to see if it was spontaneous or not, I'm not sure.

I find it passing strange, to say the least, Mr Chairman, that Mr Freeman comes here and testifies as to the justification for this legislation, citing problems that he faced over a quarter of a century ago. I have difficulty in understanding the relevance of that particular testimony.

**Mr Freeman:** When was the last time you worked in a factory?

**Mr Runciman:** The last time I worked in a factory?

**Mr Freeman:** Yes.

**Mr Runciman:** Not too long ago, as a matter of fact. I also served as a union president and a contract negotiator, and I think perhaps my experience is somewhat more relevant than yours. It's certainly not a quarter of a century ago.

In any event, I also find it interesting that your representative here today, as president of the district labour council, is also a representative of a public service union. It's interesting. We had a CUPE group before us earlier, and now Canada Post. I think if we take a look at some of the most difficult statistics in respect of labour relations in this province for the past number of years, disproportionate numbers are related to public service unions. I think that's an interesting fact that should be noted.

I'd like to hear from the president, Mr Shewring, with respect to what the economic environment is like in



Peterborough generally. What's the situation there with respect to unemployment? How does the economy look?

**Mr Shewring:** Very poor. In fact, at least in the last couple of statistics I've looked at, we have some of the highest unemployment, certainly in this part of the province, over 11%. I think it's over 11% in the city certainly. We've had a number of plant closures over the last two years, so it has been a pretty bleak situation in our area.

**Mr Runciman:** I just wonder if, in preparing your brief, you've spoken to any people. I'm talking primarily about small business people. When you're in the public service union I think that people—not totally, of course; they're starting to suffer as well to a degree and the CUPE representatives talked about reality—but they have been, for the most part, insulated from a lot of the distress that's present in the current economy.

I was just talking to a small business person outside who doesn't have an opportunity to appear today.

**Mr Shewring:** Talk to the Liquor Control Board of Ontario workers. I don't think they're—

**Mr Runciman:** That's right. I agree with you. I said there are some people who are being impacted, but not as significantly perhaps as people in small business.

He indicated to me that if this starts to impact on his business—he has about eight or 10 employees, and let's not get into a free trade debate—it's simple for him to simply move across to Watertown, for example, just 50 miles south of here and ship his product and materials back into Ontario and not be faced with the kinds of difficulties this legislation and other initiatives could present to him, and probably have presented other matters and this one as well. It's a further straw on the camel's back, if you will.

I'm just wondering how you've conducted your research in terms of looking at the impact on your area. Have you talked to any small business people who have been suffering, to try and get feedback from them as well as simply your union brethren?

**Mr Shewring:** We have a committee in our labour council which deals with the Ontario Labour Relations Act, and we also have committees of the labour council which reach out to the community in general, including some small businesses that have spoken to us. Most of the small businesses we have dealt with—and there haven't been that many, I admit, but there have been a few—see no impact on their businesses. Of course many of them are one-, two- or three-person employment situations.

We haven't seen anything, and the only reaction we've seen from business is to the chamber of commerce campaign really. Other than that, basically it was that one week and a few letters. That's been it as far as the campaign concerning the Ontario Labour Relations Act. What struck me about the campaign in particular was that it really didn't deal with the actual provisions. It was sort of: "We're against it. Write to Bob Rae and say we're agin it." That, to me, didn't provide an opening for a lot of dialogue, unfortunately.

**The Chair:** I want to thank both of you for appearing here today on behalf of the Peterborough and District Labour Council. We appreciate your interest and your eagerness to participate. You've made a valuable contribution. Have a safe trip back home.

We will recess until 1:30.

The committee recessed at 1204.

## AFTERNOON SITTING

The committee resumed at 1331.

KINGSTON FRONTENAC HOME BUILDERS' ASSOCIATION

**The Chair:** It's 1:30, and we're ready to start. The first participant this afternoon is the Kingston Frontenac Home Builders' Association. If those people would please come forward, have a seat, give us their names, titles, if any, and proceed with their submissions, trying to save at least the last half of the half-hour for exchanges and questions. Go ahead.

**Mr Bruce Sheen:** Good afternoon, honourable panel members. My name is Bruce Sheen. With me is Mike Schell, president of the Kingston Frontenac Home Builders' Association, and Gary Eskerod, a member of the home builders' association and an owner-operator of a local business. We are here to make a very short presentation this afternoon.

We're here representing the Kingston-Frontenac home builders. We have 170 member firms, representing a cross-section of businesses, most of which are connected to the housing industry. The number of jobs which are directly related locally is approximately 3,000. We are part of the Ontario Home Builders' Association, an association that is responsible for producing 80% of Ontario's new housing. This is one of the areas that depends heavily on a healthy economy to survive.

The reason we requested an opportunity to address this panel can be summed up in one word: fear. Fear for the future of the great province of Ontario, the leading province in Canada, in fact among the largest trading groups in the world. This prosperity has been achieved by a diversity of businesses, large and small, and with very little labour strife.

In most times, Ontario is seen as a good place to invest. However, even before this bill being put into law, the world is starting to hedge on investment at a time when that money is desperately needed. In fact, the Kingston and Area Economic Development Commission decided not to waste its money by sending a delegate to the Hanover trade fair this year. The reason: European banks were advising businesses not to invest in Ontario due to the uncertain labour relations environment.

Fear for the future jobs of our children: In a province that is already heavy in regulations, bureaucracy, licensing and policing, it makes it very expensive to do business in any area. Why do we need to add more laws in an area that is working quite well as is?

We already have some of the most comprehensive health and safety regulations in the world. We have a great hospitalization system, we have unemployment insurance, we have the minimum wage act and we have a collective bargaining system that, despite what the current government says, has produced a healthy labour environment.

In order for this legislation to have the desired impact, to help the worker—and the key word is worker—there has to be someone to work for, a business. I'm afraid that

this legislation will so discourage the entrepreneurs, those willing to put their ideas, energy and money at risk, that there will be precious few jobs to be had.

Fear that the Ontario government is not listening to its constituents: that it is driven by special interest groups, specifically organized labour, a group representing 35% of the people of Ontario, and when the public sector is factored out of that equation, we have around 10%. These are people who use Quebec as an example of good labour relations legislation, an assumption that the facts do not back up. There has been increased strike activity and decreased investment in Quebec since similar legislation was introduced.

Fear that the democratic rights of the individual will be lost to the solidarity that is so necessary for organized labour to survive: This is so important that the secret ballot vote, the cornerstone of democracy, has no place in this legislation. The individual will also lose the right to work during a strike.

We have a fear that this legislation will be pushed into law before any kind of government study is done to determine the long-term social and economic effects of having to live in the labour-management environment created. The only such studies I've heard of have been done at the request of the business community, and the results of these studies spell major job loss and a loss of investment in the province. Even the most inconsequential bills get some sort of a study done before they're passed.

In closing, I would like to say that the fears I have spoken of today reflect those of the members of the Kingston Frontenac Home Builders' Association, a membership in a segment of society that is among the hardest hit by the current economic times and uncertainty. We would ask that you alleviate our fears by providing some sort of documented study as to what the future holds should this bill pass as it is currently written. Thank you for your time.

**The Chair:** Thank you. I congratulate you on a presentation that is concise and brief and to the point enough to permit valuable exchanges. Mr Offer, please, we have seven minutes.

**Mr Offer:** Thank you for your presentation. I was listening closely to your presentation, and I think you're right. This bill is in a lockstep that it's going to be the law by Thanksgiving. Hopefully the form will change, but there's no question that's one of the things the government, by its time allocation, has done. I think that has caused a lot of the problem, because people are having concerns with how ready the government is going to be to deal with any changes.

There are those who try to indicate that business and business interests are just opposed to any change, period; that the opposition from the business community is hysterical, that it borders on fearmongering and misconception about what the bill is. I'd like to get your position as to what you feel should be done with respect to this particular area in the law.



**Mr Sheen:** As previously stated, I feel there's not too much wrong with what's happening right now. We seem to have a fairly stable labour-management relationship in most areas we deal in. It's a case of "If it ain't broke, don't fix it," as far as I'm concerned, and I don't feel it's broken.

**Mr McGuinty:** You made reference this morning—I saw you on the television screen—to your former membership in the union.

**Mr Sheen:** Yes.

**Mr McGuinty:** I've heard of incidents in the past—and, quite clearly, I believe them—of employers abusing employees within the context of a drive to organize a union, and I'm assuming there are incidents on the other side as well, because it's human nature. I want you to tell me a little bit about your incident, so we can have that on the record.

**Mr Sheen:** Sure. I was a member of the Steelworkers, I was working at Alcan, a young guy, probably the second job I had out of high school. I had no opinion as to whether unions were good, bad, indifferent. That was a condition of employment and you were part of the union.

We had a strike vote when I was there. We were expected to show up at the union hall and we were expected to vote strike. It's very difficult to raise your hand and say no, as a young guy just coming in here. From the moment you come through the door, all the guys you're working with are saying, "We got to stick together, we got to do this," and this is the way it is. It's just a very intimidating way to work for a person who doesn't feel he needs or wants that. In fact, that's one of the reasons I left that job.

1340

**Mr McGuinty:** Were you present at the time there was a drive under way?

**Mr Sheen:** No, no, it was well established.

**Mr McGuinty:** It was already in place.

**Mr Sheen:** Oh, yes. That was part of the condition of employment when I went in.

**Mr McGuinty:** How prevalent a feeling do you think that is?

**Mr Sheen:** I feel it's very prevalent. I also had to work and go through picket lines. In fact, even today we have the boys out front with the signs. I know if I had this restaurant, I wouldn't have been very happy, because a lot of people just don't feel comfortable going through that kind of thing.

When you work with a guy and then the time comes when he's on strike, non-union, I have to go to my job, and they make it very difficult and very uncomfortable for you to go through that line. Sympathy goes right out the window. It's like they forget you're going to be working with them when you get back off strike. It's a strained atmosphere. I think anybody who has witnessed anything like that would say the same thing.

**The Chair:** Mr Runciman, please. I should indicate you have some seven or eight minutes, if you wish.

**Mr Runciman:** Okay, thank you. You mentioned your job. You're in a non-union firm, did you say?

**Mr Sheen:** Now?

**Mr Runciman:** Yes, right now.

**Mr Sheen:** I'm in a non-union firm right now. When I was relating going across a picket line—

**Mr Runciman:** I understand that.

**Mr Sheen:** —that was a different job.

**Mr Runciman:** Who do you work for?

**Mr Sheen:** I work for a local home builder. It's called Avalon Homes.

**Mr Runciman:** And you're the chairman of the labour relations committee?

**Mr Sheen:** For the Kingston Frontenac Home Builders' Association.

**Mr Runciman:** What's the state of labour relations currently? How many businesses and how many employees are covered by the association and what's the state of the labour relations currently?

**Mr Sheen:** It's very good. We have member firms, some of which are unionized, some of which are not. We have individuals. We have small and large business involved in there. It's quite a harmonious relationship, especially, let's face it, since it's hard times for construction right now and we get good cooperation all the way around.

**Mr Runciman:** Is there any feedback from your membership in terms of rank and file people who are working for businesses in the area in respect to this legislation, other than management? Are you getting any feedback from the workers?

**Mr Sheen:** I'm not in a position to get much feedback from the workers. The people we employ, our subtrades, are generally small trades. They're two or three people. You talk to them, and as a small business, a fair number of them—I was talking to an electrician. I ran into him at the bank today just before I came here. I don't generally wear a tie, but I was wearing a tie and he said, "What's going on?" So I said I was coming down here today, and he just threw up his hands and said, "Boy, oh boy, that's bad news." He's a small businessman. Three guys work there, and he's afraid of what's going to happen with this.

**Mr Runciman:** You mention in your statement something about a Hanover show, I guess it was, to try and attract investment. Could you elaborate on that a little bit? I'm not familiar with that. Perhaps one of your friends can.

**Mr Gary Eskerod:** Another hat I wear is that of the vice-chairman of the economic development commission.

**Mr Runciman:** For the—

**Mr Eskerod:** Greater Kingston area. In that particular situation we have an option, of course, within our mandate to promote the community in ways we see fit. We had intended to participate in the Hanover trade fair to promote this greater Kingston area.

**Mr Runciman:** Have you done this in the past?

**Mr Eskerod:** Yes, on three occasions, I believe it is. The decision was taken not to do so because the atmosphere is just not conducive to investment in Ontario at this time.

**Mr Runciman:** Who's telling you that?

**Mr Eskerod:** We've heard that one was the Deutsche Bank made a comment to its investors, and in the recent past we've had two occasions where, during the first meeting, major investors looking at this community, one from out of the country and one off the continent, have expressed that concern first, "What effect will this legislation have on our operation?" We consider that to be very, very serious.

**Mr Runciman:** This reference you made to the Deutsche Bank, the comment, is there something in writing in respect to that?

**Mr Eskerod:** We're digging to find that. Prior to this meeting I got the approval of the director of the commission and he will, under oath, validate that statement, because he's the one who brought it to me. They're trying to find it. It's in one of the publications within the development community.

**Mr Gary Wilson:** Thanks for your presentation. Good to see you again, Bruce. As you know, there's just been that unfortunate announcement of the layoff at Alcan, and that is 53 workers. I think part of the feeling of regret of course is that these are seen to be very good jobs, well-paying and solid jobs in the community. I think it's generally recognized that they are so good because they are unionized. Would you not agree that the union has some role in producing the jobs that are at Alcan today?

**Mr Sheen:** There's no doubt. May I comment on some of the factors that I saw when I was there?

**Mr Gary Wilson:** That's the other thing that I wanted to say; that you, from what I gather from your answer—

**The Chair:** It was me he was talking to.

**Mr Gary Wilson:** I think he asked me, Mr Chair. I didn't know he was asking you.

**The Chair:** Go ahead.

**Mr Sheen:** I think what you were getting to was the fact that that type of atmosphere was not for me. Is that what you were getting to?

**Mr Gary Wilson:** No.

**Mr Sheen:** The reason why I would not want to continue on with a job like that?

**Mr Gary Wilson:** Not really.

**Mr Sheen:** Was that part of it?

**Mr Gary Wilson:** That's not really what I want to discuss. I think it's been raised that you can respond in an individual's way to those kinds of circumstances. But I think one thing is, you said you were just out of high school when you got that job, so you weren't there when the plant was organized. I think you'd agree that the other workers who had more seniority than you probably had a different perspective of what was at stake and that, through their experience at least, they would have a different outlook on the need for a strike.

**Mr Sheen:** I'm sure. But I also was kind of taken with the fact that a lot of them had either farms or something else going on the side. That strike time came and they weren't hurting as bad as you would expect.

**Mr Gary Wilson:** Are you suggesting they wanted, needed time to work on their farms?

**Mr Sheen:** No, they didn't need the time, but they weren't going to hurt as bad if they did not have the job at Alcan.

**Mr Gary Wilson:** Okay. Well, we've heard other submissions from both employers and unionized workers who have stressed how hard it is to go on strike, that you never recover.

**Mr Sheen:** Oh, no, I hated it. It hurt me. I'm not saying myself, but I'm saying a lot of the older guys, that was the situation they were in. It wasn't going to hurt them as much. Some people really do get hurt, but enough of them don't. They're still covered.

**Mr Gary Wilson:** Also, I just want to touch on the idea of solidarity, which you seem to think is maybe less useful in that kind of situation, because it strikes those of us who have followed this issue that there is an incredible degree of solidarity among the business community on this aspect; that is, the idea of fear that has been repeated by most presenters from the business side about this, and there isn't really a lot to back that up by the community at large.

For instance, you and I are both in this community. I would say that there aren't a lot of people who are saying to me, "This is dreadful; Ontario's on the brink of ruin here." It's not so well recognized by the community at large, partly because, as you've admitted, through Alcan in particular, but generally, we have a very solid community here. So the course is, the future we don't know.

You have cited the example of a German bank as saying, "Investing in Canada is risky," apparently because of our labour relations. I'm a bit surprised they have it pinned down that exactly, when we have the example of the trade deal, the recent GST and our overvalued dollar as being examples of why it is so rough to do business here; that they would cite that as an example. But more than that, do you know what the unionization level in Germany is?

**Mr Sheen:** No, I understand that, and I've worked at UTDC and I've worked with a lot of people from a company called Steyr in Austria. That's a company town, so I understand very much that the feeling is somewhat different there.

**Mr Gary Wilson:** Exactly. One of the things that Germany is cited for is its very productive economy. A lot of European companies—

**Mr Sheen:** Then I'll go back to my days in the union and productivity. I worked in sheet metal. One of the things that was bargained for in one of the sessions was that we had to do so many pieces per hour, let's say 12 pieces per hour. The object was, do it so that it comes out to about 11½, don't hit the 12. I know we could have done 20 because when Stanley Cup time came, there was a TV back in packing and we had our work done so we could get back to see the game and then we had enough left over at the end of the night just to finish off our shift when we were on 4 to 12. I'm not making it up. That's the kind of thing that just didn't sit right with me. I didn't want to work in that environment, so I got out. It's a person's



choice and that's all I'm looking for. This seems to eliminate a lot of choice.

1350

**Mr Gary Wilson:** Right. So you're going from that one experience to say that all unionized workplaces are very unproductive?

**Mr Sheen:** No. I can only go by my personal experience.

**Mr Gary Wilson:** Yes, but you admitted it's kind of limited. You were right out of high school when you were in that circumstance.

**Mr Sheen:** I was in another union, as well, the brotherhood of electrical workers, and I worked at the PUC. Although the atmosphere was a lot different there, a great bunch of guys to work with, there were some guys who were just getting carried and everybody realized it, but it wasn't a very—I don't know how to say it—active union or whatever. It was actually a really great place to work; I really enjoyed that.

**Mr Gary Wilson:** But again, look at the example of Germany, which is highly unionized and is a very productive economy and is one of the reasons that is used to support good labour relations legislation. So again, it depends on the broad experience. You say since you've been out of the workplace; that's a few years ago and that's another reason we feel that there is the need for this legislation, that things have changed in the workplace and these changes have to be accounted for.

**Mr Sheen:** Could Gary just comment on that?

**Mr Eskerod:** I'd like to respond, if I may. First of all, if the organized labour is such a positive thing in Europe, why then would the greatest financial institution there be concerned about investing or suggesting its people invest in an environment that appears to be going in that direction? That is one thing I'd like to say.

The other thing is, I too have been a member of union. I was in the international brotherhood of papermakers and I worked very hard in that job. I was told on many occasions, and this was some time ago, so I'm not as familiar with the current trend, to slow down, leave some work for someone else, don't work so hard, don't press so hard, it'll be there tomorrow, it'll always be there tomorrow, and that was uncomfortable.

I'm not suggesting that all union or organized environments are like that, but, like Bruce, I think that it should be a matter of choice. I would not stand in the way of my employees if they chose or if I caused them to want to choose to be unionized, because I am the one who would be responsible for that happening as manager. Poor management will bring it. I would not stand in their way, but I would also not make it a condition of employment that those who don't choose to must join that organization. This is a free society we live in and I believe that freedom of choice is critical. You folks, or part of you folks, are proposing legislation that will take away those freedoms, and those freedoms apply not only to me as a manager and an owner of a business but it applies to your supporters.

**Mr Gary Wilson:** We see it that we're actually adding freedom. We're not forcing anybody into unions. We're just making the choice easier, where they want to make it. But beyond that, Gary, this idea that there are certain ways of working things that suit the individual can lead to problems; that is, that individuals will work at a pace and in a way that is harmful to their coworkers and that's where health and safety legislation comes about.

It's not always clear to individuals and perhaps employers why this legislation is there, the health and safety, but in this community alone we have people walking around without limbs and other injuries because of workplace accidents that have now been addressed through good health and safety legislation, often at the promotion of unions, that unions have brought to the fore. So it's made the society that much better.

You'd agree yourself: the loss of time and the social cost of injuries at the workplace, the damage to families and to the society at large through lost production. That's one of the very definite ways unions have increased the productivity of the workplace: by making them safer. As long as workers have that kind of standing that they're not easily replaced, as they do in some places—and that's one of our concerns with Mexico, for instance. Without strong labour legislation workers have a lot less value; they're easily replaced. Yet we know the pain and the hardship that causes to the society in general. That's not the kind of community we want to live in.

**Mr Eskerod:** The health and safety regulations we operate under are imposed on us with or without organized labour.

**Mr Gary Wilson:** I'm saying that organized labour has a very strong role to play in promoting them.

**Mr Eskerod:** If I may, just one last comment from me. There is more discord, from my point of view or perception, between organized labour and management on this legislation than I have seen in 25 years of business. There is more polarity taking place right now than I have ever seen. You can feel it in this room. I just appeal to you: Listen. Sure, you may hear the noise, but listen to it. There are intelligent, well, thinking, reasoned, rational people on the business side of this equation who are saying to you, "Do a study." If you accept that there is one intelligent, reasoned, rational business person who has made the assessment that this is going to have a horrendous impact on the economy of the province and on the jobs of your supporters and my employees, listen and do that study; then do what your judgement tells you to do.

**Mr Gary Wilson:** Well, I think it's clear, again from the examples we've used, that this legislation will actually produce more cooperative and productive workplaces. That's the decision we have—it's changed a lot, as you admitted. It's been a while since you've been in that kind of setting. What we find now, looking at other examples and from our own experience, is that the cooperative workplace will be the far more productive one, and that's the way we have to go because of the changes that have occurred in the workplace.

**Mr Hayes:** Just on the comment you made in regard to health and safety legislation having been imposed on you without labour involvement: I was part of the labour involvement in my role as a health and safety representative, and I can tell you that labour lobbied very hard to get decent legislation and changes in the Occupational Health and Safety Act for the protection of workers. So there was labour, management and the government involved in that.

I'd like to ask Mr Sheen a quick question here. You talked about having pressure put on you by the workers about not going on strike, a we-all-gotta-stick-together solidarity type of thing. My understanding is that Alcan has had two strikes in a matter of 30 years or better, and both of those times there was a secret ballot vote whether to accept, reject or go on strike. Were you there when this happened? And if it was a secret ballot, I'm wondering how you felt the pressure or intimidation or whatever.

**Mr Sheen:** No, unless I was misreading what we were voting on, it was a hands up.

**Mr Hayes:** Anyhow, this is the information I have. I'm just wondering, because we're talking so much about having secret votes, and yet you say with a secret vote you have pressure put on you. On one hand it's good to have that and on the other hand it isn't.

**Mr Sheen:** There's still the pressure. I don't necessarily agree. I know I was in a hands-up situation, whether we were voting to have a secret ballot vote, whatever.

**Mr Hayes:** So what you're saying is that the one strike you were there and you never did put a check on a ballot.

**Mr Sheen:** I never put a check. I was on strike.

**The Chair:** I want to say thank you to Bruce Sheen, Mike Schell and Gary Eskerod for being here this afternoon and speaking on behalf of the Kingston Frontenac Home Builders' Association. We appreciate your interest, we appreciate your readiness to participate and we're grateful to you. Take care.

1400

#### AEROSPACE INDUSTRIES ASSOCIATION OF CANADA

**The Chair:** The next participant is Aerospace Industries Association of Canada. If those people will please come forward, have a seat, tell us their names, their titles, if any, proceed with their submissions. We have your written submissions, which will be made an exhibit and form part of the record. Go ahead, please, and please try to save time for questions and dialogue. As you can see, they can be some of the more enlightening elements of this process.

**Mr Fred Sutherland:** My name is Fred Sutherland, president of the Aerospace Industries Association of Canada, a position I've held for two months. Prior to that, I served in the Canadian air force for 33 years. My final two appointments were commander of the air force and vice-chief of the defence staff. With me is Peter Broadhurst, chairman of our human resource committee and vice-president of

Litton Systems Canada. We thank you for the opportunity to appear before you today.

First, I'd like to present a brief profile of the aerospace industry, which is one of the three principal high-tech industries in Canada.

We do have a formal presentation, of which you have a copy. However, given your recent admonition to us to keep it brief and in recognition of the horrendous exercise you've been going through for the past several weeks, let me applaud you for your alertness. I would have expected to see about 14 sets of glazed eyes, suffering from information overload or cerebral saturation. But you could be forgiven if you were in that state. The fact that you're not bears witness to your conviction and your dedication.

As I mentioned, we do have a formal presentation. In the interests of time, I will briefly highlight that and then, in what may be a rather significant departure from previous presentations, I would like to address members of this committee on a rather personal level.

The aerospace industry: In 1991 the sales totalled \$9.4 billion. Of this, approximately 70% or \$6.6 billion were exported primarily to the United States, Europe and Pacific Rim countries. About 45% of the total productive capability is located in the province of Ontario. The business is capital-intensive, and together with computer electronics and telecommunications, the three industries invest more than 50% of privately funded investment among research and development intensive industries in Canada.

To be specific, our aerospace companies alone invested in Canada over \$700 million in research and development and over \$350 million in plant and equipment in 1991. Almost all of these investments are shared equally between Ontario and Quebec, where 90% of the Canadian aerospace industry is located. We employ 60,000 directly in well-paid, high-value-added jobs, indirect employment is estimated at about 35,000 and I will leave it to you to estimate the unquantified but significant induced employment and multipliers our industry generates through derived demand for secondary industries.

The Ontario government's recent decision to assist in the successful restructuring of Boeing-de Havilland into the Bombardier group to me represents a major acknowledgement of the role the Ontario government believes the aerospace industry should play in the province's economic revival.

The industry is largely foreign-owned, including some major companies with world product mandates. However, the industry also sustains a good number of indigenous medium- and small-sized Canadian companies as suppliers to Canadian prime contractors. These number about 200 to 300 and have an estimated turnover of about \$1 billion to \$1.5 billion.

We pride ourselves on being one of the few Canadian industries operating at the forefront of technology while concomitantly contributing to Canada's positive trade balance. We've attached for your information a reprint of an article in the *Globe and Mail* indicating that we, along with nuclear, are two of the net exporters in the high-tech segment of our country.



The remainder of our presentation highlights our specific concerns, concerns I'm sure you've heard from a myriad of other people, but the themes are probably constant with only subtle nuances to reflect the specific circumstances of those presenting. However, I do commend to you for early reading pages 12 and 13 of our presentation, which includes very specific examples, not theory, not conjecture, where proposed legislation has already impacted on member companies.

What is not in our presentation but struck me on the way down on the train is that in reading the Industrial Policy Framework for Ontario, which the government recently produced, there's a very high degree of congruence between what is being espoused by the government in that document and the characteristics and strengths of our industry: the need for more research and development—as I just told you we are national leaders; the requirement for more value-added manufacturing—that is the essence of our industry; the need for continuous innovation, increased technology capability, developed linkages and networks and building international capabilities and so on—these are all characteristics of the aerospace industry in Canada and in Ontario. That is why other countries and other provinces in this country and states in the United States are realizing the importance of aerospace as a key element in their respective industrial strategies.

Against that backdrop of congruity, I'm sure you will understand our profound perplexity at the incongruity between the recently announced government industrial policy framework and the impact on our industry of the bill under consideration. In its simplest expression, this incongruity would read: "Yes, aerospace is exactly the kind of industry we need, embodying the characteristics we see as essential to achieve the competitive advantage we seek for our province. Notwithstanding, we are proposing to bring about a series of changes to the OLRA which will significantly mitigate that competitive advantage." Is it any wonder that the left-hand, right-hand metaphor leaps to mind?

In trying to characterize the situation I referred to a book which some of you may have read, *The March of Folly*, written in the mid-1980s by Barbara Tuchman. I'm leaving a copy, free gratis, for your clerk in the hope that some of you, in between reading the numerous briefs that have been presented to you, will find time to read excerpts from it.

**The Chair:** Are you leaving that with the clerk or with the Chair?

**Mr Sutherland:** The Chair, sir.

**The Chair:** Thank you.

**Mr Sutherland:** The book was widely heralded and acclaimed as an epic study of blundering statecraft that sweeps from the wooden horse of the Trojan war, through the provocation of the Protestant secession by the Renaissance popes, through the British loss of America and finally the American experience in Vietnam. In my opinion it should be mandatory reading for anybody in political life, including those who purport to advise that person. Barbara Tuchman defines the essence of folly as the pursuit by

governments of policies contrary to the interests of the constituency or state involved. She then lists four criteria: It must be perceived as folly in its own time, not with the benefit of hindsight; a feasible alternative course of action must be available; it must be of a group and not an individual leader; it should persist beyond one political lifetime.

If this sounds pedantic or gratuitous, I am sorry, but I make no apology, for I firmly believe that in circumstances such as this and in the process in which you are involved, probably with millions of words, lots of rhetoric, polemic and lots of emotion, a return to basic and immutable first principles might take you above the political fray and increase the efficacy of your judgement.

I expect that each of you sitting around this table with the MPP signs entered political life with the altruistic motivation of serving your province and the people of Ontario—a very laudable undertaking. With your political role comes great responsibility; specifically, to govern as reasonably as possible in the interests of the state and its citizens. With that responsibility comes duty.

Again from Tuchman: "Duty in that process that is governing is to keep well informed, to heed information, to keep mind and judgement open enough to perceive that a given policy is harming rather than serving self-interest, self-confident enough to acknowledge it and wise enough to reverse it. That is a summit"—her word—"in the art of government."

In this very personal appeal, we, along with the many people, I expect, who have appeared before you in opposition to the proposed amendments, are simply asking you to do your duty, to reach that lofty summit of which she spoke and which I just mentioned. Let us not allow this to become another chapter in *The March of Folly*.

Let me bring it down to a more personal level, hypothetical I hope. If this legislation goes forward in its present form, unamended, and if it passes third reading, and if on voting day you stand proudly in your places and vote for passage of the legislation, once the hand clapping and back slapping has subsided, I would ask you in a moment of quiet reflection to sit down and pen a note, "Dear son, dear daughter, dear grandson or granddaughter," as the case might be, and ask that person to hold it and open it on graduation day. It should read something like this:

"Dear son, daughter, grandson or granddaughter,

"As you today graduate and prepare to embark on your career and enter the Ontario job market, the dynamic market which characterizes our economy, I would like you to know that in the fall of 1992 I proudly stood and voted for a piece of labour legislation which has helped to create this dynamic economy you are now entering."

If the prophecy comes true that way, then you can proudly be with that person when the letter is opened. But if all of the so-called fearmongering that you've heard over the past three weeks is true or even partially true, and if one of the ramifications of this legislation is some of the direct consequences that have been predicted by many people at this and other tables, then you'd better find yourself a bloody good way to get to that letter before your son or grandson or daughter or granddaughter opens it.

1410

**The Chair:** Thank you, gentlemen. Mr Runciman, six minutes, please.

**Mr Runciman:** I want to assure Mr Sutherland that he won't have to worry about that and the children he's referring to won't have to worry about that, because the next Conservative government is going to rescind this legislation. So I just want to make sure he understands that.

A couple of things. I'm sure this is going to be raised. You make reference at the outset to the fact that the aerospace industry is shared equally between Ontario and Quebec.

**Mr Sutherland:** Ninety per cent of it.

**Mr Runciman:** Yes, 90%. And obviously we've heard some references made to the Quebec experience in respect to replacement workers, for example, although we know this legislation will give Ontario the most comprehensive labour legislation in North America, so in many ways the Quebec experience isn't comparable. But in this one element of it, with respect to replacement workers, what has the industry's experience been in Quebec?

**Mr Sutherland:** Well, the industry has been part of the strike situation in Quebec. There have been strikes at some of the major Quebec-based aerospace industries. I can't give you the specifics, but—

**Mr Runciman:** Well, I'm on the same side as you are in this and it seems to me that this is the sort of argument that you should be prepared to deal with, because you're talking about just-in-time delivery. We're talking about a whole host of concerns, and I think this is perhaps a major factor in respect to that.

We have the government telling us that Quebec has survived this, even though we can look at a variety of statistics that say this is not the case. Hopefully, I will hear something from your industry in respect to, "Look, we have seen business lost to Quebec province as a result of this movement out of the province and investment dollars looking elsewhere." Do you have any track record in that respect?

**Mr Sutherland:** I can't give you the specifics. We could certainly provide that, Mr Chairman, through your clerk, if you so desire. We have a couple of instances, and I won't name names, of companies that have moved out of Quebec in the aerospace sector.

If I might just go back to the point you made, one of the key elements in the current economic climate in which we find ourselves, in an increasingly global competitiveness arena, is that things such as just-in-time delivery are absolutely key. Illustratively, we point in one of those examples we give you that every Boeing aircraft has a component that's made in Ontario. If you're Boeing, you want to make damned sure that you're going to get those things just in time or get them overhauled when they're down. If there's anything, regardless of what it is, that impacts on the certainty of delivery, then you are going to start asking yourself some severe questions: Do I really want to have that plant in that province or that country at the same time we have surplus capacity in our own country and we have our own layoff problem?

There's a vacuum in the United States, and I don't think it takes much to sway a very pragmatic, business-based decision that: "We cannot afford that uncertainty. We will repatriate that to ensure certainty of delivery." It's absolutely critical in our industry.

**Mr Runciman:** What's your labour relations experience in Ontario in the last five to 10 years? How many strikes have you experienced?

**Mr Sutherland:** Once again, I can't give you the specifics. There have been a couple of significant strikes in the industry.

Let me add to that, if I might. One of the things our industry is doing, and I would expect any other manufacturing and perhaps other industries are doing, is that for the reasons you've probably heard ad nauseam around this table, for some of the reasons I've just discussed, for total quality management and all those other things, it's absolutely incumbent on any business enterprise, as a key element in this success equation, to foster the most harmonious relationship possible with its labour force. It's in their own best interests. Whether you believe in unions or don't believe in unions or whether you are unionized or non-unionized almost becomes academic. The primordial objective is to create within your own organization the most harmonious, cooperative labour relations, and that's not legislation. That's cooperation and partnership, which is also a cornerstone of this green document.

**Mr Runciman:** I very much appreciate your submission, and I simply want to say that I think it would be very helpful to those of us who share your perspective on this if you could provide the information I've made reference to, because I think it's a real weakness in your argument, if I may be permitted to say so. One of the points we've taken with the government is that it hasn't done a study in respect of the impact, and here you have a very clear experience with your particular industry in a jurisdiction that has had somewhat comparable legislation in place for a period of time. I think those are the kinds of facts that should be made available to all of us so that we can make more informed decisions.

**Mr Sutherland:** Sorry. Mr Chairman, do I understand that you want us to provide the committee with a comparative—

**Mr Runciman:** That would be helpful, from our perspective.

**The Chair:** You can provide that to the clerk, in this instance. The clerk would be pleased to receive that from you.

**Ms Sharon Murdock (Sudbury):** Thank you very much. Actually, I'm in total agreement with everything you just said to Mr Runciman. When I was on the consultations in Ottawa in January and February, we had an appearance before us of the Canadian Advanced Technology Association; we got into a discussion, brief because of time constraints, on the flat management style. Due to the complexities and technological nature of the entire industry, you had more of a team management approach to getting the job done, which is more along the European and Japanese model, I would think you'd agree.



I notice in the *Globe and Mail* article you supplied at the last page, aerospace had a trade deficit of \$1.6 billion just four years ago, and now you're one of Canada's success stories. I would like to know how, in the last four years, given the tremendous recession we have, you've done that.

**Mr Sutherland:** It can be cyclic. A major aircraft buy will tilt the figures one way or the other. Because of the magnitude of the programs involved, if you're talking a multibillion-dollar acquisition program in defence from the United States or from Europe and so on and so forth, those balances can change very quickly.

**Ms Murdock:** In aerospace, are all your locations organized, or are some not organized and some are, or how does that work?

**Mr Peter Broadhurst:** Generally, it's about 40% organized; if we take the smaller organizations, 60% is not organized.

**Ms Murdock:** I know Mr Runciman has asked for the actual data, but just from experience, in terms of the last 10 years, have you had strikes?

**Mr Broadhurst:** Yes, we've had a couple that got a considerable amount of publicity. I guess the adventures of de Havilland over the period of time have been very well written up and I think most people understand some of the issues that were involved in that. Similarly, there have been some instances at McDonnell Douglas, which is another major problem, which again has been extremely well written up. But in general I think the labour relations within the industry have been very good, both at the organized labour plants and also in the non-union plants.

Basically, as Fred has outlined, it has been recognized that where you have high value added and highly paid people competing in the global market, if we are going to pay ourselves \$20-plus dollars an hour, we're going to insist on people doing more than just taking orders. So throughout the industry there has been this move afoot to get more cooperative relationships between the people actually doing the work on the shop floor and the management. In fact, there's a whole level of middle management, I think as the article indicated and as your discussions with CATA mentioned, that has disappeared. Those tasks are being picked up by the people on the floor with such things as self-directed work teams and that kind of approach.

We are dealing with very highly capable people, highly skilled people. I think the labour relations within the industry have been good in that respect. There has been an area of mutual respect.

1420

The area that we have the problem with, which was outlined earlier on the JIT situation, is when we go to talk to customers, particularly in the United States and overseas, who are worried about deliveries. If you're somebody like Boeing that has a \$50-million airplane sitting on the ramp waiting for a particular part or component in order to deliver it to your customer to get paid, you take a great interest in how that delivery could be held up and what could cause it.

**Ms Murdock:** In Windsor, we had Budd Automotive come and explain that situation. They had a very wild reputation in the 1970s and into the early 1980s for wildcat strikes. Finally, they realized they were doing themselves out of a job and have had a different kind of relationship. They said that in one of their strikes the situation came to the point where they had to get some flats or whatever to a major client or they were going to lose it, and if they did lose it, basically the company was going to go down the tubes. As a consequence, the union and the management worked it out and delivered the flats during the strike in order to save the company. It's the fear that has been expressed by many of the groups that we're having difficulty understanding.

**Mr Broadhurst:** To come at your question from a slightly different angle, you talked about us having these tremendous sales successes over the past few years. At the present moment, recognizing that the US is a major customer of our industry, as a result of the downturn within the industry in the United States, particularly the defence industry, there is about a 30% surplus of capacity down there with companies in that. It's also projected that over the next five years there will probably be another 25% to 30% reduction in volume, and those facilities—

**Ms Murdock:** Reduction?

**Mr Broadhurst:** Reduction in the defence side of the business. So there is a surplus of capacity and a surplus of capability in the North American market. That is why we have this tremendous fear factor that we must appear to our customers as being a reliable, capable and high-quality source of product for that particular thing. That's why we're extremely twitchy about anything that might constrain that.

**Ms Murdock:** Mr Hope wanted to ask you a question.

**Mr Randy R. Hope (Chatham-Kent):** As I was viewing your presentation, looking over it twice, you made reference to the replacement worker issue and just-in-time. I take it that most of your organizations run through your collective agreements, so once every three years you'll go to the bargaining table and negotiate. You talk very positively about working relationships; I guess it all deals with attitude, the management's attitude and labour's attitude, to work together and resolve. If it takes a negotiator to negotiate a collective agreement, then that's one of the key elements.

But dealing with just-in-time, you talk about your part suppliers who supply you with parts. What I've been examining and trying to pull up more information on is that you have more problems on the 401 with traffic tie-ups in making actual deliveries to your customers. Also, you have more difficulty with financial institutions calling in their notes without notification on some of the small supply businesses you deal with. That must lead to more problems with producing your product than this actual piece of legislation.

I hear what you're saying about attitude and cooperation. It's your goal never to have a strike, or somebody's going to get in trouble if there's a strike. But the issue I reflect on that affects just-in-time is the financial institutions. In my area,

we deal with part suppliers. Part suppliers are being victims of banks walking in the same day and dropping a note on the desk, and they're locking the factory up, which is creating new, major problems. Also, the traffic tie-ups on the 401 are on a daily basis. Yet we're more focused on a three-year term of a collective agreement. I'm just trying to get things in perspective here.

**Mr Broadhurst:** The position we've taken is that all the points you raised are part of the overall problems of being in business, particularly in our kind of business; in general, they tend to be unavoidable. As to the situation on the 401, you can never really have a regularly scheduled crash; they tend to happen at random.

But we feel this particular legislation is an avoidable situation from the point of view of constraints on the JIT approach. There are two points within the legislation that, in very general terms, perturb us.

One is the preamble. Until now, the purpose clause has indicated it is to ameliorate labour relations. The new purpose clause talks about it as being to encourage unionization, which is a fairly fundamental change.

The second thing that worries us to a great degree and that, to come back to Fred's point, is in our opinion bad law—and you're lawmakers—is the fact that it puts so much into the hands of the labour relations board to establish regulations. As you probably know from dealing with quasi-government situations, quite often you have trouble detecting where the regulations are, compared to what was in the enabling legislation that came about.

That is an area of concern to us, that as the legislation is in place and the regulations are drawn up, we may very well find ourselves in a position which causes real concern. This would not necessarily be the relationship to the formal union; it was going to be the wildcard situations and those kinds of areas, which is a whole new ball game, and of course anything new and not clearly understood is a source of concern to business people.

**Mr Hope:** There was also another—

**The Chair:** Thank you, Mr Hope. We've got to move on to Mr McGuinty.

**Mr McGuinty:** I'm not sure if I have a question, gentlemen; more of a comment, I guess. I want to congratulate you at the outset for your presentation and particularly for the note of moderation you've sounded.

One of the things that has disappointed me with respect to a lot of the presentations is that there's a lack of recognition of the vital role that both business and unions play in this province and the capability they have, in working together, to strengthen our economy.

I'm very pleased to see the specific examples you've outlined on page 13 of the difficulties you have already encountered as a result of the proposed law contained within Bill 40. Notwithstanding your congratulations at the outset and the committee members continuing to be awake and alive to all the subtleties of each presenter, I've got to tell you personally that I've grown particularly tired with respect to one aspect. I've grown tired of the finger-pointing and the name-calling and the allegations and the

innuendo, of the suspicion and even the contempt in which one side often seems to hold the other.

Sometimes I think I'd like to do what I do with my kids, in this sense. To give you an example, we've got three boys in one bedroom. They've got to make their beds in the morning, but they can't fold the sheets unless they get two working together. So sometimes they run out of the room and say: "He's not going to help me. We can't make the bed." I say: "All right, boys. Back into the room. You can't come out until you make the bed." What it forces them to do, sooner or later, is cooperate, and they get the bed made.

But we're not making beds here now; we're talking about strengthening the economy. I'm wondering what it is that we can do as legislators to compel business and unions to cooperate. Unfortunately, this very process in which we are presently engaged is entirely counterproductive, to my way of thinking.

NDP Premier Harcourt had a much better idea. He wants to reform their labour legislation, so he set up a tripartite process. He's got government, he's got labour and he's got business, and he's put them in that group and said, "Cooperate and come up with something."

**Mr Sutherland:** You've probably heard from a lot of people—at least, I hope you've heard it from a lot of people—exactly what you're saying. I think the gentleman who was sitting here in the previous presentation asked for something similar. What this proposal might have done is sent a shock wave through the system such that from the business perspective they realize that, "Hey, if we don't like this, what is the alternative?" It seems to me that the most logical, productive alternative is to do what you suggest: Back to the drawing board.

On a very personal level, I cannot help but think, for the reasons we cited earlier and you've heard ad nauseam around this table, that in a contemporary, global, competitive, damned tough economy globally, strikes and lockouts can only be considered at best an anachronism. I mean, to go back to your family illustration, if you and your wife have an argument, she doesn't lock you out or withdraw service of cooking and all that sort of stuff. You sit down and work it out, hopefully, in a productive fashion.

1430

The loss of a single workday due to lockout or strike is a day lost for ever, and it's a day that Ontario or Canada increasingly cannot afford, because the damned world is passing us by. If anybody in this room or who comes to this table doesn't realize that, then I suggest they're not in touch with reality.

Paradoxically, this is not a zero-sum game. There are going to be winners and losers if this process unfolds without change. The winners, in the short term, if there must be winners, will probably be the trade union people who are supporting the bill. The losers, ostensibly, will be the business community. The biggest losers of all are going to be the people of Ontario because of the projections that might unfold for this economy; and, paradoxically, cruelly paradoxically, in the longer term, the poor people themselves who are supporting the bill, in the fullness of time, because



of what might happen to the Ontario economy. Even if only half or a quarter of the dire projections come true, it will impact on them. So it might be a short-term gain, a pyrrhic victory, for long-term pain and economic difficulty.

**The Chair:** I want to say to you, Mr Sutherland and Mr Broadhurst, thank you for appearing here today on behalf of the Aerospace Industries Association of Canada. You've obviously provided a valuable bit of input into the process of the committee. The responses of the committee members attest to that. So we thank you kindly. We're grateful for your interest and for your participation and trust that you'll take care.

**Mr Sutherland:** Thank you, Mr Chairman.

#### CAW CANADA

**The Chair:** The next participant is Canadian Auto Workers, Canada. Please come forward, have a seat, tell us your name, your title. We've got your written submissions. You can read it, highlight it, do with it as you wish, but please try to save time for exchanges.

**Mr Glen Myers:** I'll try to be as brief as possible. My name is Glen Myers. I'm a national representative with the Canadian Auto Workers union. On behalf of the Canadian Auto Workers union, I'd like to take this opportunity to welcome you to Kingston and let you know that I very much appreciate the chance to speak with you today with respect to our views on Bill 40.

By way of background information, I think I should tell you that my current role with the CAW is with our servicing department. In this capacity, my primary function is to work with established bargaining units throughout eastern Ontario to help them negotiate their collective agreements, process and arbitrate grievances and more generally to build relations between our members and their employers which allow both parties to succeed and prosper.

Prior to assuming these duties, I was attached to our organizing department and had the opportunity to work with groups of employees who wanted to become part of our organization. So I have had firsthand experience not only in dealing with these workers but also with the process people must go through if they wish to enter into collective bargaining with their employers.

The Ontario Labour Relations Act, and in particular the proposed amendments, are extremely important to all working people across our province, union or non-union, female or male, from every ethnic origin and in every sector of our society, because the act sets out conditions and controls which not only govern employers but also employees and their unions, should they choose to become organized.

I believe the vast majority of people in this province, from whatever political persuasion you like, would have to agree that without a Labour Relations Act, the state of employer-employee relations in Ontario would be chaotic, unproductive, unmanageable and unbearable. Those few who might not agree with this assertion would relegate our society to those we see in Third World countries where there are no labour laws and where they cannot provide the

goods and services to sustain themselves, let alone be competitive in exporting goods and services to other countries around the world.

The critics of the proposed amendments might agree that yes, we need labour laws, then argue that we have them and they don't need to be changed, especially right now. I would suggest to those individuals and businesses that not only are there compelling reasons to modernize the act, but as well, the timing of these changes could not be better.

At a time when the business community and the federal government are telling us that the way we do business with our customers at home and in other countries must change through liberalized trading laws, such as the Canada-US free trade agreement and now the North American free trade agreement, and by being more competitive and by placing our economic emphasis with the service industries rather than in the manufacturing sector, and that these changes must be ushered in if we are to maintain a strong economy and a progressive society, well, at a time when such dramatic changes are taking place to business practices in our province and around the world, not to mention all the changes which have taken place over the last 15 years since our labour laws have last been reviewed, I for one find it very strange indeed that this same business community tells us that we do not need to change the way business is done between employers and their employees. To suggest that such dramatic changes have to be made to the way we do business with our customers and trading partners but not to the way business is done between employer and employee is to offer half a response to a changing world.

As for the specific changes being proposed, I believe the overall effect will be not to tip the scales in favour of unions, as some suggest, but rather to expedite the process by which the Ontario Labour Relations Board determines the true desires of workers involved in the certification process, whether they be in favour of or against forming a union. As well, I believe they will reduce the number of days lost to strikes by banning replacement workers, who not only prolong strikes but who are also naturally less productive than the regular employees who are walking the picket line.

More specifically, having been involved in the certification process on many occasions, I can tell you that it often takes a year or more of labour board hearings for a panel of board officers to determine the true desires of oft-times small groups of 20, 30, 40 or 50 workers. Why does it take so long? One of the main reasons is because of what I call the tag team approach taken by companies and groups of workers who may be opposed to those who want to organize.

While the current legislation prohibits companies and workers opposed to unionization from working directly together to oppose the union, their respective legal counsel works the system to make false allegations, distort the facts and camouflage the truth in an effort to delay and prolong the process. To anyone who has observed these hearings, this tag team approach is obvious and sometimes quite blatant, and certainly common knowledge among

regular observers of these proceedings. I shudder to think how much this tactic alone has unnecessarily cost taxpayers over the years, and it's time it's stopped.

The only way to stop this gross misuse of the current system is to ban petitions during the certification process. In this respect I don't think the legislation goes far enough. If workers truly do not want a union, my experience as an organizer tells me that they will not sign a union card in the first place. However, when asked to sign an anti-union petition by an opposing worker, there is a natural fear that if management sees the petition without their names on it and if the union is unsuccessful, then repercussions will surely follow.

I do believe that workers should be able to change their minds about being represented by a union, but if a majority of the workforce sign union cards, then the union should be allowed to bargain the first contract. Then, if employees are not satisfied with the representation they receive, they can decertify the union during the open period at the end of the term of the first collective agreement or any subsequent agreement.

Speaking of first contracts, we do welcome the amendment which allows increased access to first-contract arbitration, but I must say only as a last resort. The preferred method is to sit down and negotiate a first agreement, or any agreement for that matter. But getting workers certified is only the first hurdle. Employers sometimes refuse to recognize their employees' democratic decision to organize by refusing to bargain, or simply go through the motions without bargaining seriously in another effort to delay the process. This amendment should help in that regard.

With the growing trend to place greater emphasis on creating jobs in the service sector that I mentioned earlier, the proposed amendment dealing with the right of part-time workers to form bargaining units is not only timely but also welcomed by workers who have lost their jobs in manufacturing and can only find jobs in the service sector, which has such a high percentage of part-time employees—which, I might add, is not by accident. Employers in the service sector caught on long ago that if you want to avoid having an organized workforce, just hire part-time workers and you won't have to contend with decent wages and benefits that organized workers expect and deserve.

As well, provisions that will allow domestics and professionals to organize are long overdue. I can't think of any reason why these people should not be allowed the same basic rights that other workers have. As a matter of fact, in 1986 I was one of 27 Canadians to participate in His Royal Highness the Duke of Edinburgh's sixth Commonwealth study conference, which was held in Australia. I might mention I noticed Bob Huget here today. The first time I met Bob was at that conference, and I haven't seen him since. It's good to see you again.

**The Chair:** Aren't you going to say hello, Bob?

**Mr Bob Huget (Sarnia):** Yes. Hi.

1440

**Mr Myers:** The purpose of this study conference was to bring representatives from business, government and labour

together so that representatives of each group can get a better understanding of each other's concerns and objectives.

During our tour of various locations in Australia, I had occasion to meet a supervisor in one of the factories we were touring, and he gave me this lapel pin of his union. When I explained to him that in Canada supervisors in factories were not allowed to join unions, he said to me: "Well, mate, I've only one question for you. What kind of democracy would stop any worker from joining a union?"

I find it interesting that when you look around the world at some of the strongest economies, those same countries, such as Australia or European countries like Germany and others, all have strong, progressive labour laws, including laws such as Germany's, which require union representation to sit on the boards of directors of companies. When I see all kinds of business groups and associations springing up to oppose this government and the proposed changes that Bill 40 would bring and I know that many business members of these groups operate in these other countries, it makes me wonder who they're trying to kid when they say that these changes will drive them out of this province, when they continue to operate in countries with much stronger labour laws than those proposed under Bill 40.

I realize that this committee will and has been hearing submissions from a great many groups and individuals, some of whom are small business people, who seem to be concerned that these proposals will suddenly cause masses of workers to join unions.

Speaking as a former organizer, I can tell you that trying to organize workers is one of the most interesting studies in human nature one could ever experience. There are many reasons why workers will sign a union card, but, let me tell you, just as many why they won't.

Expediting the process, which these proposed amendments will do, will not change workers' attitudes towards unions. It will simply allow the Labour Relations Board to determine more quickly what the true desires of the group of employees are as a whole, and in the process save the taxpayers of Ontario a lot of money.

Let me close by saying that I think this government has done a thorough review of the Labour Relations Act and the proposed amendments, which are not only long overdue but also reflect the changes that are taking place in our economy and society, and we in the CAW commend the government for these efforts.

If I may, I'd like to leave you with two last thoughts. First of all, every day across this province, and indeed our country, business people meet in boardrooms, airports, hotels and anywhere else they can to negotiate the terms and conditions of the sale of goods and services into contracts, and that's just business. Workers sell their labour to make a living, so if they want to sit down with their employer and negotiate the terms and conditions of the sale of their labour with the employer, they're not being disloyal or subversive, they're not rabble-rousers or instigators; it's just business.

Secondly, when businessmen make decent profits, so often we see them take them outside the country to invest elsewhere, but when workers make decent wages, they



spend those wages on goods and services in their own communities.

I want to thank you very much for your time and I'll be happy to answer any questions I can.

**The Chair:** Thank you, sir. Five minutes per caucus. Mr Hope, please try to save some time for Mr Hayes.

**Mr Hope:** I certainly will. Glen, it's good to see you, as you're a Chathamite, I see, from Chatham.

**Mr Myers:** I'm a Kingstonian now.

**Mr Hope:** Glen, there's an area I want to talk about that I tried earlier to get a handle on. Three-year collective agreements come up once every three years. You, representing a lot of plants, are probably faced more with dramatic experiences of work stoppage or shortage due to the transportation of product and just-in-time, and with financial institutions walking in and dropping the note on employers, than are due to labour-management relations.

I'm just trying to determine what's actually going on here, as we're hearing both the business and labour perspective. In your opening remarks, you talked about working on behalf of the employees and the employer, cooperation and working together, and I'm just wondering if there's something you could add from the perspective of the real problems that are sometimes faced.

**Mr Myers:** A couple of points, just to touch on what you seem to be getting at: Yes, I did mention in my remarks that more generally, my role is to see to it that employers and employees our organization deals with succeed and prosper. That's not a one-sided ambition. As previous speakers have said and as I'm sure all of you know, one side cannot exist without the other. If a company is on the skids and workers realize it—or they should realize it—then they have to either modify their demands or, in some cases, take cuts to keep that business afloat. That's not unusual to see these days, and it happens all over.

In terms of some of the particular problems that smaller companies face, particularly in auto parts, a lot of small companies are running lean and haven't got a lot of capital to keep them going. Their credit lines at the banks are being cut off, and not only is that an immediate problem for the business at hand but for the people they supply.

To that end, I do have a letter to George Peapples, president of General Motors. It was sent to him by Buzz Hargrove, president, Canadian Auto Workers union, on that very topic. If the committee likes, I could read it or submit it for its perusal. It's not that lengthy, but it goes into the various things you're talking about. The point is made that Bill 40 doesn't inhibit "the ability of Ontario parts manufacturers to be reliable providers of components of vehicle assemblers" in the province, and that more time is lost as a result of not only traffic problems on the 401 but certainly—

**The Chair:** You're quoting from the letter.

**Mr Myers:** Yes, I am, actually. I'm trying to find the point I was trying to make here.

**Mr Hope:** Just submitting the letter would be quite appropriate.

**Mr Myers:** Yes, I'll just submit the letter and you can go over it. I think it would probably take too much time to read.

With things like just-in-time as well, if a parts supplier has a major breakdown in equipment, then obviously the customers who are waiting for those parts, because of the just-in-time system, might have to send workers home, have a layoff until a parts supplier can get a piece of equipment operating again. So yes, there are problems associated with just-in-time, but I can understand the rationale behind it in a lot of ways: it cuts down on warehousing costs etc.

If I want to emphasize anything in what you're speaking about, it is the fact that we both have a vested interest in this whole situation. If we are to make this transition from manufacturing to service, as we seem to be doing in this country, particularly in Ontario, because we've been the heartland of manufacturing, then those workers who lose their jobs in manufacturing and have to go to the service sector for a job—a lot of the jobs in the service industries are part-time jobs—very often find themselves taking on two or maybe three part-time jobs.

Because of the fact that traditionally they've been low-paid, I think it's very important that those people in that sector particularly have access to the certification process, should they choose to go that route, because it is the certification process and the fact that they're organized and collective in their dealings with management that have allowed industries like the manufacturing industry to achieve the standard of living we've enjoyed in this province for many years now. I think it's important that this be said, because they do spend their wages in the community; and if they're going to go to a service sector, where they haven't got the ability to organize as part-time workers, then I guess we can expect to see the standard of living drop dramatically in this province.

**Mr Hayes:** Mr Myers, we hear arguments on both sides. One side says there's a level playing field here, that if it works, don't fix it, that it seems to be going quite smoothly. Yet the other side has come to the hearings and talked about some of the harassment or coercion or intimidation or even firings of people who attempted to join a union.

I know you touched a little bit on what the state of relations would be if we didn't have a Labour Relations Act now, even as it is. But in your opinion, and I'd like to know, how drastically would these amendments really change the balance of employer rights versus employees' rights, and could you give us any specific examples?

1450

**Mr Myers:** I could give you many examples of organizing drives I was in charge of where people were fired or people were taken aside and, maybe not fired, but told either to back off their organizing activity or they would be; that happens. If somebody suggested it's human nature that people overreact when they find out that perhaps their employees are going to organize, well, it is an overreaction, because it does happen.

A case in point right here in Kingston is a company by the name of Bosal that makes exhaust systems for imported

vehicles. We began an organizing drive there some four years ago. There are about 80 people in the workplace, not a huge workplace. Shortly into the organizing drive—I wasn't in charge of that particular one, but our organization was, and I know we were sitting at around 15% to 20% of the workers signed up to cards, hardly enough to make an application. But we had just gotten the drive started, and the company came out and made statements and gave letters to the employees—I can't quote them because I don't have the letters with me—to the effect that should a union come in, there would be devastating consequences in terms of the business, and it led the workers to believe that the place would close.

The Ontario Labour Relations Board, when it reviewed these circumstances, decided that even though the union only had between 15% and 25% of the workforce signed up, in no possible way could a democratic vote be taken because it wouldn't express the true desires of those workers because of the interference by management.

I know there's a rationale out there, and sometimes it's a pretty hard argument to make that we shouldn't agree to a vote in every certification process. I know that argument's been put to you, probably, and I've certainly heard it from the business community. Why not? It sounds very democratic, and it makes it a tough argument to get around. But a lot of those workers who wanted a union, if there had been a vote, would have voted no, because what are you going to do? Are you going to vote for something that will cost your job? Obviously not, even though you might think it's the way to go.

So the board realizes that votes can be tainted because of such actions. I'm not saying it happens in every organizing drive; it certainly doesn't, because most employers are smart enough not to make those statements, because they are in fact illegal, but it happens.

As an organizer, I'd like to tell you that we go to organize a bargaining unit only where workers have called us and asked us to come in and organize. We don't go into places where we haven't been invited by workers, and not just a couple of workers; we have to get a consensus whether there are enough that a significant majority could be had. When we start an organizing drive, we're very cognizant of the fact that the board scrutinizes and questions witnesses and may call any card signer to see that it was a true statement of desire on his or her part.

I always tried, as an organizer, to impress upon people who were working with me to get cards signed, because I couldn't get into the workplace to sign them up personally. You have to rely on employees to go around and sign people up. I had to rely on them, and therefore I instructed them very explicitly not to engage in anything that could be remotely construed by the board to be coercion, intimidation or any such practices. If people said no, you might make an argument, you might make your point to them as to why they should, but if they insist that it's no, then you leave them alone and let them decide. It is a democratic society we live in, and I tried to impress that upon them.

I can only speak from my own experiences, but certainly we're aware of the board proceedings and we are

aware that it does scrutinize both sides for not engaging in practices that could be considered coercive.

**Mr Offer:** Thank you for your presentation. You will know that during these hearings, we have heard individuals and groups come before the committee and say these changes will cost jobs and investment. On the other hand, we've also heard individuals come before the committee and say there will be no effect on jobs or investment. I was somewhat intrigued by your presentation, because you alluded to the NAFTA, and though I do not know the position of your union on that at this time, it seems to me you would think it absolutely essential for your members to be fully aware of what the impact of the NAFTA agreement would be. I'm wondering if you could confirm that.

**Mr Myers:** There's no doubt that we communicate very strongly with our members on matters such as NAFTA, and our message to them is quite clear. We do have a position on it. Just to let you know what that is, our position is that, with respect to Mexico and North American trade, in autos particularly, because that's the predominant industry we deal with, we should have a style of agreement similar to the auto pact that had been in place for many years with the US. That's the type of agreement we should be negotiating on a tripartite basis with Mexico and the US.

**Mr Offer:** I think I understand what you're saying. I think you're envisaging that type of agreement because you're aware of what the impact would be to your members.

**Mr Myers:** Right.

**Mr Offer:** So if that is your position with NAFTA—and I think it is reasonable in the extreme—and if, on this bill, we have some people saying jobs and investment will be lost, with others saying they'll be gained, don't you believe that in order to build some sort of cooperative spirit, the government should undertake an impact statement on this bill, putting to rest as best it can those concerns about what this bill might do, which you are almost demanding the federal government do with the NAFTA agreement? Why not the consistency in two areas which people, for or against, recognize are going to have a fundamental impact on the economy of this province?

**Mr Myers:** With all due respect, Mr Offer, there are two points I would raise in response to your question and concern. First of all, our position on NAFTA is to present an alternative to NAFTA. The auto pact type of package that has sustained our automotive industry in Canada for many years—and very well, I might add—is hardly the same as the type of liberalized, free trade style of agreement that has now been negotiated with Mexico. They're diametrically opposite. The thrust of the auto pact style of agreement is to say that if you purchase a certain amount of vehicles, then you're going to build a certain amount of vehicles. All right?

The other point I would make is that I personally don't need, and I don't think CAW needs, an impact study either on NAFTA—we've never called for that—or this. You don't have to be Houdini to figure out that NAFTA, as it stands right now, is going to cost this country jobs. You



don't have to be Houdini to know that Bill 40, when you see part-time workers who now don't have the right to organize—I don't need an impact study to tell me that workers get fired during organizing drives. I don't need an impact study to tell me that with so many people losing their jobs in manufacturing and going to the service sector, those barriers to organizing have to be taken down.

**Mr Offer:** The issue isn't organizing; the issue is jobs and investment. If you can be so clear and so certain that NAFTA is going to cause job loss, what do you say to those—and I'm not saying this—who would say, "Maybe it won't"? What do you say to those who say this bill is going to cause investment loss, is going to cause job loss, is not going to create a job? Why, instead of us talking about things we don't have on the table, isn't it most responsible, in this new era of competition, to have government say, "We think these provisions are necessary for a variety of reasons, and we believe the responsible approach for all workers in this province, for the economy in general, is to look, on a sector-by-sector basis, at what this means to the province"? What is someone so afraid of?

1500

**Mr Myers:** I don't think we're afraid of a study.

**Mr Offer:** Not yourself.

**Mr Myers:** Contrary to the suggestion of certain members of this committee that this whole exercise is nothing more than a public relations effort—which I happened to see on television when the hearings first opened—that's not why I'm here. I'm here to present my experiences and my input, and I think you're here to listen to those, and I know you're hearing it from both sides. I consider this whole exercise a study on the potential impact of this legislation.

By the same token, with respect to NAFTA, I have to go back to the Canada-US free trade deal. If the ramifications of NAFTA are going to be similar to that, I don't think we need to spend taxpayers' dollars on an impact study. I think we know what's going to happen.

**Mr Runciman:** I like Mr Offer's analogy with respect to the position the CAW is taking on NAFTA versus this particular legislation. You talk about Houdini, but it seems to me that your approach and the approach of a lot of people in organized labour could be a sort of an Alice in Wonderland approach, because I have difficulty with what you're saying.

As to some of the things you're talking about, service jobs and organizing the service industry because they have traditionally been low-paying jobs, I have a lot of service jobs in my riding in the tourism industry, and I know they're having an extremely difficult time now, even with the recent change in the minimum wage. Some of these very small businesses are having an extremely difficult time surviving. It's just one other thing in terms of the tax load, the increase in hydro costs etc that is eroding their competitive position.

You talk about spending money, that these people spend their money in the province versus business people making profits and investing outside of the province. We have a particular problem, in this part of the country any-

way, with cross-border shopping. People are not spending their money in this province; they're going across the border where business and industry are producing products at less cost than what we can do in this environment.

I have a big company, and there are a number of them in my riding, like Black and Decker. These are multinational corporations with head offices outside of this country. We can argue that the Ernst and Young study doesn't hold water; 295,000 jobs lost, and you say it doesn't hold water. We've been pursuing the government and organized labour to come up with a study that will contradict that, but we haven't been able to achieve that commitment yet.

I'm just concerned about this sort of approach from organized labour, that things are going to continue to get wonderful, improve in this province despite making these changes in the depth of the worst recession we've seen since the 1930s. You say this is the time to do it anyway. I can see that, from your perspective and the fact that you have an NDP government in place in Ontario, it may be the time, but when faced with all the other facts that confront us, I don't think it is the time at all to be introducing these kinds of significant changes which are going to make this the most comprehensive labour legislation in North America in terms of legislation affecting labour relations.

I'm really looking for why you have such a rosy scenario about the implications of this legislation despite everything we're hearing from the other side of the equation. Whether you buy it or not, they have spent money and conducted an impact study, whereas you folks have not done that. You simply say: "No, things are going to be great. These fears are just imagined, and they're not going to really occur."

**Mr Myers:** Having met with individual workers for years, trying to organize them—and, as I said in my brief, the attitudes about unions by workers are no different than those of society as a whole—there are a lot of reasons why they want to join and there are a lot of reasons why they won't. I don't think those attitudes are going to change by expediting the process by which the board determines the true desires.

I'd like to give you an example of something else you said. You mentioned cross-border shopping. I can localize the example, I guess. You talked about parts of my brief that dealt with companies taking profits and investing them elsewhere.

I represent workers in a plant in your riding in Brockville: Gilbarco. They manufacture gasoline pumps. Recently, a contractual raise was due to the workers. We weren't in negotiations. It was midterm in the contract and they were due for a contractual wage increase.

Gilbarco, like many other small operations—that particular operation is small, although Gilbarco is a fairly large company. The plant manager approached the union committee and asked if they would forgo the contractual increase that was due to them on the same day that he rode into work in a \$30,000 company foreign car. It doesn't give the workforce a good impression in terms of "What's he doing to help our economy?" It's pretty tough to convince a worker to give up a contractual raise of 50 cents an hour when the plant manager drives into work that same

day in a new \$30,000 import. It doesn't leave a very good taste in their mouths.

Yes, some of our members and workers do cross-border shop. In a lot of cases they're laid off and haven't got that much money and they're looking for a bargain, I guess. We obviously don't think that's wise on their part but, by the same token, they're following the example the business community sets by going cross-border shopping for labour. I've had that argument thrown at me by workers who cross-border shop when I try to instil in them that it's not such a good idea.

**Mr Runciman:** Management is the source of all their sins.

**Mr Myers:** No, I'm not saying that, but when you lead the way, people follow.

**The Chair:** Mr Myers, I thank you on behalf of the committee, you and CAW, the Canadian Auto Workers, for your participation in this process. You've made a meaningful and valuable contribution. We thank you and your membership.

**Mr Myers:** It's my pleasure. Thank you very much.

#### KINGSTON AND DISTRICT LABOUR COUNCIL

**The Chair:** The next participant is the Kingston and District Labour Council. Would those people please come forward, have a seat, and give us their names and titles if any.

**Mr Charlie Stock:** Good afternoon. My name is Charlie Stock. I'm president of the Kingston and District Labour Council.

Part of my brief incorporates two letters I'd like to present at the end of this to the Chair regarding some thoughts.

On behalf of the Kingston and District Labour Council, we're pleased to be able to make this presentation and written submission to the resources development committee. We're here today to respond to Bill 40, the government's proposed amendments to the Labour Relations Act. The labour council will try to give the members of this committee information as to what we support in the amendments and why we support it.

The right to organize has been extended to a number of groups currently excluded. Our council supports the proposed amendments which remove the exclusion of domestics, agricultural, horticultural and forestry workers, hunters and trappers, and professionals.

Clearly there is room for improvement in this collective bargaining process in our province. To achieve the relationships the government is pursuing, amendments to the Ontario Labour Relations Act are necessary.

Some people will say business will leave the province if these changes occur. These individuals should question why General Motors Corp is making business decisions about downsizing and talking only about plants in Ontario while investing millions of dollars in Sainte-Thérèse, Quebec, where the provincial government has legislation dealing with replacement workers.

Many jobs have been lost in the Kingston area, and I ask the question, if these labour law amendments were

shelved, would the plants that are closed, such as Kingston Spinners, Olan Mills, and J. P. Coats, reopen? Would the workers be recalled from all the workplaces that have experienced downsizing and massive layoffs? Please don't let the critics confuse this issue, such as the media campaign we're experiencing.

#### 1510

Security guards who belong to a union should have the right to choose which organization they would like to join; again, the freedom to decide. Basically, my message is that if you want a union, it should be up to you. Give workers the freedom to choose. Certainly the amendments which have been proposed are dealing with the issue of fairness. Not all workers in the province of Ontario want to belong to a union, but they should have the freedom of choice to vote yes or no in a democratic fashion.

Kingston and District Labour Council endorses the changes to improve collective bargaining and reduce industrial conflict.

**Replacement workers:** This is surely the most controversial section of the proposed amendments. The use of replacement workers and possible prohibitions against this practice have been the subject of considerable debate since the introduction of replacement worker legislation in Quebec. Such restrictions will only apply during a lawful strike or lockout, and this must be authorized by a strike vote in which at least 60% of those voting authorize the strike.

The passing of these amendments should eliminate the emotionally charged and hostile picket line confrontations of the past. For example, here are two letters related to recent situations in Kingston.

"1. We, the members of the Retail, Wholesale and Department Store Union, Local 414, from S & R Department Store, feel that the amendments being made to the Labour Relations Act are exactly what are needed now and were needed during the fall, winter and spring of 1990-91 when we were on strike. The anger and hurt that was felt by all of us on the picket line during a very cold and bitter winter will be embedded in our minds for ever.

"The insults and ridicule that we suffered from people who were uninformed enough to believe that the company was hurting as badly as they would have liked us to believe was indescribable.

"The humiliation and frustration of having scabs cross the picket line every day for over five and a half months to do our jobs while all we wanted was a fair settlement was almost unbearable.

"It is time for these amendments so future generations of working people will be protected and not have to endure the pain and hardships that we had to endure during our long and bitter strike.

"The business communities and chamber of commerce in Ontario must be living in the 1930s with their Neanderthal way of thinking to believe that changes are not desperately needed to an act that has not been changed or amended in over 15 years."

"2. In August 1990, after negotiations failed to achieve desired salary increases in the renewal of the contract for the workers of St Lawrence Place, Kingston, a strike vote was taken.



"Both St Lawrence Place and its Burlington branch, St Charles, are part of the Paron Construction empire in this province. Ramada Inn and the condominium tower adjoining the St Lawrence building complex on prime downtown land were and may still be part of that empire."

Of the two places we're talking about, the department store, S & R, is about half a block from this hotel, and the other place is a block and a half the other end of the street.

"Listed as Kingston's 'premier retirement home,' St Lawrence Place is premier in so far as the high rates it charges and the demands it puts on its employees are concerned, but not so premier in the wages they pay their employees, being among the lowest-paid in the field throughout the province.

"Local 183 of Service Employees International Union, at St Lawrence Place, is composed of about 40 women, for the most part, part-timers, who for various reasons have joined the workforce.

"It must have taken a great deal of courage to have decided on a strike vote, because it meant a cessation of their ability to participate in the support of the family—for some, perhaps, the only support of the family—strained family relationships, and the loss of independence, pride and dignity to subject themselves to the elements while manning the picket line from August to mid-December.

"Surely the vote to strike was motivated by frustration if not by despair. A strike, never experienced by these employees before, was the last resort open to workers, having reached an impasse with management negotiators; the last and, in this case, fruitless attempt to win over management interest in bringing the main issue to a speedy and agreeable conclusion, and to show management the unity of purpose the workers have in that endeavour, believing in the justice of their expectations.

"After four long months, these courageous people were, by necessity and mounting difficulties, compelled to accept 65 cents over two years—to have sacrificed so much for so little. The lowest increase that 65 cents represented is about 60 cents an hour less than today's current minimum wage, by the way. The employer and the workers would never be quite the same again.

"During the whole strike period, the owners of St Lawrence Place employed a company of security guards at great cost, money that could easily have gone towards settling wage increase demands. Their prime interest seemed to be to intimidate these women strikers by calling in the local police force for mainly imagined and often seemingly induced transgressions of strike rules. Though management had always demanded the very best of their knowledgeable employees, now they were willing to hire scab labour, these people largely untrained opportunists, insensitive to the reason for the people manning the picket line they had to cross, many like thieves in the night. Thieves they were and thieves they are.

"The residents for whom the employer had previously shown concern were now not too concerned to inconvenience at the usual high monthly rates and regular yearly increases. Not logical, not just, and certainly, in my opinion, lacking in wisdom, an employer most people would

rather not work for if not out of convenience, necessity or insecurity.

"Employers like that of St Lawrence Place very often complain about the lack of industrious, reliable and dedicated workers, yet do not seem obliged or responsible to pay fair wages or offer decent working conditions in order to have and keep good people. Profits may be lower, but a knowledgeable employee earning a fair wage can be the difference between business and no business.

"Workers in a country like ours should not be expected to exist at a poverty level or be forced to retain two or even three jobs in order to make a living, or we should stop criticizing in our pompous way the less industrialized countries, where this is a rule of life. Workers should not feel guilty when making rightful demands of their employer or be forced to strike in order to attempt to get justifiable wage increases.

"Things may have been different for the workers of St Lawrence Place if anti-scab legislation had been written into law. We will now accept nothing less of our provincial government than that it do so, and give us a realistic minimum wage as well. We voted for this government, trusting in it and promises it made. Fulfil these promises or lose our support."

The writer of this letter is doing so out of respect and sympathy for his fellow worker. He has never been involved in a strike before, has always had an abhorrence of strikes and, if anything, up until now has been management-oriented.

In an emergency, the amendments provide that the employer can hire replacement workers without consulting the union, but the employer is required to inform the union as soon as possible. The union can then insist that the employer use striking bargaining unit workers to perform the emergency work. The board is granted the power to determine whether the circumstances described exist, to modify the actions taken, subsections 73.2(11) and (12), and to expedite proceedings into alleged violations of these sections, subsection 104(14).

Overall, the amendments will assist the parties in focusing their attention and efforts on the real issues before them. By eliminating disputes regarding scab labour, the law will facilitate the work of the parties in concluding a collective agreement expeditiously.

The board's interpretation of subsection 73.2(3) enables the employer to use replacement workers or striking workers with union consent in order to prevent danger to people, the workplace or the environment.

The council supports the new statutory provision, section 75, concerning a back-to-work protocol which parallels that of other provinces such as Manitoba and Quebec. This amendment will apply whenever the union and the employer cannot agree on the terms for reinstating striking employees at the termination of a lawful strike or lockout. Where there is no agreement on reinstatement, the employer is now obliged—"shall reinstate"—the striking or locked-out employee to the position held before the strike unless there is "not sufficient work."

Where work is insufficient, employees must be recalled in accordance with their collective agreement's recall

provisions. Where these do not exist, the recall must be in accordance with "each employee's length of service." Striking employees are explicitly "entitled to displace" non-bargaining-unit replacement workers.

This amendment will have a positive impact on those few lengthy strikes where employees and their union have little bargaining power left. It will also throw into question whether an employer, following an employee's reinstatement, can discipline or discharge an employee for conduct during a strike.

In conclusion, we would like to take this opportunity to thank the resources development committee for taking the time to hear our views. We trust that our concerns will receive serious consideration in the final writing of this legislation, which is so very important to our members and the people of Ontario as a whole.

I was just going to give the last page of this attached brief for your information, but after listening to the district chamber of commerce this morning quoting Professor Carter, there are some parts of this newspaper article that I think are worth my reading out:

"And if Ontario does adopt the new reforms, says Professor Carter, it will simply be 'catching up to other jurisdictions.' Research carried out by the Ontario Federation of Labour shows that Manitoba, for instance, has adopted 11 of the 13 key reforms. Quebec has adopted eight reforms, including the so-called anti-scab legislation. The federal government and Saskatchewan have adopted seven, British Columbia six, New Brunswick and Prince Edward Island three. Even Tory Alberta has adopted five key reforms...."

1520

"An in-house Ministry of Labour study suggested that some of the reforms would save money for both sides by reducing litigation, thereby improving labour-management relations. Many other reforms are expected to be cost-neutral. The study's authors expect the reforms to result in a slight to moderate increase in union organizing in Ontario; they are unsure, however, if this will necessarily cost employers money. Some studies suggest that unionization increases productivity and competitiveness.

"In the heat of a strike, unions and management sometimes forget that they have a common interest. 'Unions do not want to put employers out of business,' says Professor Carter. He suggests that most of the resistance to the reforms come from non-union employers and not from unionized corporate giants like those in the automotive industry. 'My sense is that the largest employers in this province are not going to the wall on this.'

"Professor Carter predicts that the NDP's labour reforms will eliminate some of Ontario's nastier strikes and foster better labour-management cooperation. They are aimed, he says, at encouraging a unionized, high-wage economy, based on the reasonable assumption that Ontario cannot compete with such low-wage economies as Mexico's.

"'We have been going that way,' he says, 'since the Second World War.'"

With that, thank you very much, and I'm open for questions also.

**The Chair:** You gave us two letters. One is from the Retail, Wholesale and Department Store Union, Local 414, and that's signed. The other one—

**Mr Stock:** It's from a worker at St Lawrence Place who feels too intimidated to sign it. His name is on the envelope that's before you.

**The Chair:** Okay. We'll not receive that as an exhibit then. You've made reference to it in your submission.

**Mr Stock:** Very well. I gave it to you in the envelope with his name on it.

**The Chair:** I understand that. But it's either going to go in with the envelope or it's not going to go in. Do you understand what I'm saying, sir?

**Mr Stock:** The important thing is that the people of the committee have heard the views.

**The Chair:** Fine, thank you. Mr Offer.

**Mr Offer:** Ms Fawcett is next.

**Mrs Fawcett:** I thank you for your presentation and I understand now the retirement home that you're speaking of would have maybe some essential services that would be part of what is provided at this place. I'm just wondering how a strike would affect a place like that where replacement workers would not be allowed in, in reference to seniors who are unable, let's say, to take care of themselves. That's why they are at a place like that. I'm wondering how that all works out. Could you explain?

**Mr Stock:** St Lawrence Place is a retirement home; it's not a chronic care type facility. It's not the type where people need constant care. As a matter of fact, it's all à la carte, and if somebody wanted help with a bath or wanted his or her toenails trimmed or anything like that, you pay as you go. In the act, the way I understand it, the reforms will cover off essential emergency-type situations. It wouldn't have an impact on St Lawrence Place if there was a real need in the case of emergencies or what not.

**Mrs Fawcett:** I'm just thinking in terms of, let's say, basic cleaning and the health regulations and things like that. If people were on strike and those kinds of functions couldn't be performed, then there would come a point where the residents would either have to leave possibly or the place would have to shut down.

**Mr Stock:** Or perhaps the company's bargaining committee will have to sit down in good faith and come to an expedited collective agreement.

**Mrs Fawcett:** I agree. I'm agreeing with you. If there are wrongs there, I am much in favour of the workers' rights and so on. But right now, I do have some concern, let's say, for the residents who would be there and just how that would all work out.

**Mr Stock:** I would suggest to you that the employees of St Lawrence Place have just as many concerns for the people they are taking care of and would not unnecessarily want to see anything negative happen to them. These people, through their experience in a very prolonged labour dispute, had nothing. At \$5.40 as a settled wage increase, it's hard for me to fathom that an employer is paying out that much when the minimum you're going to



pay to be able to live at St Lawrence Place is over \$2,000 a month. If the owner of St Lawrence Place was as concerned for the residents as he appears not to be concerned as far as a fair wage for the people working there—I think that's where the whole thing comes down to.

**Mrs Fawcett:** I have no trouble with your thinking there in the concern for the residents and the workers getting a fair wage, but in a situation like that, I think there are a few extenuating circumstances and I'm just wondering how they'd be resolved.

**Mr Offer:** As you were going through your presentation, something came to mind and I'd like to get your thought on this.

In the organizing drive, in Bill 40 there is no duty on the part of the organizers, however they've decided to come in, either at the request of one worker or not, to serve a notice that there is an organizing drive commencing, to post a notice informing workers of their rights or indeed to inform the employer that there's an organizing drive being undertaken. Would you support a change in the legislation that would sort of take an organizing drive into the open, that when an organizing drive is being commenced, there be an obligation on the part of the organizers to inform through notice of rights and responsibilities that it is being undertaken?

**Mr Stock:** No. My perception of what you just asked me is that you're really insulting working people's intelligence. If somebody comes knocking on my door and asks me about my ability or whatever my feelings are on a certain trade union activity or any other activity, I'm not naïve enough to think that a working person is not smart enough to understand what's happening. I don't understand why you would have to think that there's somebody so blind or scary or—

**Mr Offer:** I'm sorry. I don't think it should be read that way and I'll tell you why.

Under Bill 40, as you're in favour of the abolition of petitions, there is still, as we hear from the government, the right of a worker to use what is termed a petition prior to the filing of an application. It would seem to me that the way in which we can ensure that all workers know their rights is to be certain that all workers are aware of what's going on. This is far from being an affront to workers. This is more in the lines of protecting the workers' right to choose and change their minds.

**Mr Stock:** Certainly workers deserve the right to choose and make up their minds and certainly they're intelligent enough to do that.

**Mr Runciman:** Mr Stock, what do you do for a living in the area?

**Mr Stock:** I work for Northern Telecom.

**Mr Runciman:** What's the labour relations experience there for the last 10 years or so? Any problems, any long-term strikes? How are things?

**Mr Stock:** We've had strikes at our workplace, yes. My local union is not confined just to Northern Telecom. My local union is part of Bosal Canada. It's part of UTDC,

which is now Bombardier, and part of the defence works which just recently shut down.

**Mr Runciman:** You say you've had strikes. How many in the last 10 years?

**Mr Stock:** In 10 years?

**Mr Runciman:** Yes.

**Mr Stock:** I would say three.

**Mr Runciman:** Of significant duration?

**Mr Stock:** No.

**Mr Runciman:** Are there specifically areas of this legislation that you can point to that would have helped you out of those situations?

**Mr Stock:** I can think of lots of situations around here. In my own local?

**Mr Runciman:** Yes, I'm talking about the specific strikes. I assume a lot of them were based on wage increases, benefits and those kinds of things.

**Mr Stock:** Our collective agreement is in a master form, so it's not just what's happening here in Kingston. It's what's happening in Belleville, Brampton, London and, until recently, in Saint John, New Brunswick. It's a master agreement, so you can't localize an issue for this area.

**Mr Runciman:** When you're saying you have a strike, it's not at the Kingston site. It's a broad strike.

**Mr Stock:** It goes across the province. If there's a strike, it would be across the master agreement.

**Mr Runciman:** I see. Were most of those strikes based on wages and compensation?

**Mr Stock:** Several issues.

**Mr Runciman:** I'm trying to get your feel on whether you felt any specific elements of this legislation would have seen you avoid those strike situations.

**Mr Stock:** No, but I think the bargaining relationship right across the province, if you could get to the point where employers, bargaining agents and the government are working together, you'll end up with a better situation, not just where I work but right through the province.

1530

**Mr Runciman:** Is Northern Telecom a continuous operation, or is it an eight-hour, 12-hour kind of thing?

**Mr Stock:** Some parts are continuous; some aren't.

**Mr Runciman:** In the Kingston site?

**Mr Stock:** They have from time to time been on a seven-day operation.

**Mr Runciman:** Reflecting on the last strike, was the company able to operate the plant with the management staff?

**Mr Stock:** During the last 10 years, the company has never attempted to operate the facility through the course of a strike.

**Mr Runciman:** So you haven't had a personal problem with the question of replacement workers.

**Mr Stock:** I have a personal problem with the idea of seeing people in our community, which we have seen here,

affected negatively in a situation which this legislation would certainly correct.

**Mr Runciman:** You made your views clear. I'm talking about your own personal experience at Northern Telecom. Obviously, as you said, you haven't had a problem.

I'm curious about the whole question of continuous operations. You're being very aggressive here. Obviously you feel strongly about the legislation, but I'm just curious about this one element of it. Having worked in the chemical industry, knowing you have CIL and a number of other of those kinds of operations in the Kingston area, do you have any sympathy for the ownership of those kinds of businesses in respect to trying to keep their operations running in a strike situation? I gather your goal simply is, if you go out on strike or the employees go out on strike, there's a total shutdown and that's the situation you want to see them experience.

**Mr Stock:** We never go to the bargaining table to bargain a strike; we go to the bargaining table to negotiate a collective agreement. We exhaust many, many hours through the collective bargaining process before we end up in the situation where there'd be a labour dispute.

**Mr Runciman:** But I'm saying that you obviously have no sympathy for the owners and management of continuous operations. It can take weeks to get an operation up and running, at the cost of thousands upon thousands of dollars, and I gather that in that respect you have no sympathy for that sort of situation at all.

**Mr Stock:** At the Northern Telecom plant here in Kingston on Gardiners Road, we have never through the course of a strike had the facility and its extrusion equipment shut down. If it's going to be shut down it has to be properly shut down, and we all want jobs to come back to. We certainly want our employer to be successful, because if we're not successful, then there won't be any jobs later anyhow.

**The Chair:** Thank you. Mr Wilson.

**Mr Gary Wilson:** Thanks a lot, Mr Chairman. I want to leave some time for my colleagues.

**The Chair:** All of them?

**Mr Gary Wilson:** Mr Ward, at least. I think they'd all like to say something in response to this brief. Thanks a lot, Charlie, for this response. It's too bad to see Mr Runciman leaving. He seems not to have gotten the message very clearly that what you feel strongly about is not so much the legislation but what the labour relations have done up to this point. You've made it very clear what the workers at St Lawrence Place had to go through to get a very substandard settlement. Perhaps you want to repeat that, about what it means to a worker to earn those wages in our society; as you point out, less than minimum wage.

**Mr Stock:** It's less than two years since the labour dispute at St Lawrence Place, when those people, beginning at the bottom, were only making \$5.40 an hour. Most of them were part-time; obviously, if they had families to support, they had to go out and find a second job. These people are not greedy workers; all they're trying to do is make their workplace a better working environment and to

take care of their families and raise their standard of living, not by a substantial amount but by a fair amount.

The idea that because they were out for that length of time they perhaps weren't concerned about the people they're over there taking care of is absurd. They care and they care sincerely. But they also care about trying to raise their standard of living, and not one of those workers, I will assure you, when they thought they were getting into a labour dispute—they'd never had a labour dispute there before. This was the first opportunity, and I'll tell you, not one of them ever dreamt their employer would treat them that drastically, for such a long time.

Most of the time, when we're talking about replacement workers, it's people who require very little training; and especially in the current situation, where there is a high unemployment rate, people can be intimidated into going and taking other people's jobs.

**Mr Gary Wilson:** It seems that Mr Runciman believes sympathy for the worker does not leave room for any sympathy for the management or the employer. Yet you've pointed out that certainly in your own negotiations you want a job to come back to. It's not as though you're trying to drive the employer out of business, as the implication of some of the submissions appears to be, that workers become unionized only to drive employers out of business.

In your submission you also point out that companies have left this very city before the legislation has appeared. As you say, they're not going to come back simply if we scrap the plans for this legislation. In other words, there are other factors that go into making that decision.

But to talk about the attitude in the workplace for a moment, one of the members of the Liberal Party suggested that it's almost like a family dispute; certainly one of the management representatives agreed with that, that it is family-based. But can you imagine families treating each other like this? For instance, on the picket line it's the workers who have to put up with the loss of income and the rough conditions on the picket line. Do you see that this is anything like a family setting, that workplace relations are on that basis?

**Mr Stock:** I certainly wouldn't like to see my family treated that way. If business is the head of the family and it is doing that, I guess that's why we created children's aid societies and a few other outfits to take care of problems like that.

**The Chair:** I want to thank you, Mr Stock, and the Kingston and District Labour Council for your interest, for your participation and for your valuable contribution to this process.

**Mr Stock:** Thank you very much.

**The Chair:** We're grateful. Take care.

1540

#### KINGSTON COMMUNITY LEGAL CLINIC

**The Chair:** The next participant is the Kingston Community Legal Clinic. Mr Done, please come forward, have a seat, tell us your full name, your title, if any, and proceed with your submissions.



**Mr John Done:** My name is John Done. I have the honour of being the director of the Kingston Community Legal Clinic, and it's on behalf of the clinic that I'm making these presentations.

I've prepared a paper. I hope all of you have a copy of it. You'll be glad to know I'm not going to read from that paper. I'll try to highlight a few remarks. I hope I don't need the whole half-hour, but perhaps there will be some questions as well.

I'm here to talk about a fairly narrow issue in the labour relations reform. The narrow issues that seem to be involved are, firstly, the ability of some people to join trade unions who previously weren't allowed to join trade unions, and secondly, the process of certifying a trade union as a worker's bargaining agent, and the extent to which both of those issues will likely have the result of increasing the degree of unionization in this province.

The comments I'm going to make to you this afternoon are purely the result of my background as the director of the Kingston Community Legal Clinic. I've worked at this clinic as a lawyer for the last four years. Our clinic is typical among most of the 75 community legal clinics in the province. What we do at that clinic is provide free legal services in the areas of poverty law. What I mean by poverty law are workers' compensation, which seems to be affected, in my view, by these amendments; we do welfare family benefits work, and we do unemployment insurance advocacy as well.

What we find is that many of the people who come to us with employment-related complaints come because they've worked in hazardous workplaces, they've been injured on the job or they've been fired unjustly. Of the people who come to us at the clinic, the overwhelming percentage—I would hazard to guess about 90% of them—are non-unionized workers. They come to the legal clinic for advocacy because they haven't got a union to represent them. They have no one to speak on their behalf when they encounter a difficult situation of fact or law. Often, in my view, these people are fired because they have no protection. When a situation develops at work that puts their job in jeopardy, they have no one to advocate on their behalf, to negotiate on their behalf and to tell their side of the story.

I suspect that many of the people who come to us are injured because they're non-unionized as well. I wish I had some statistics on that, but what I mean to say is that people who are injured are frequently injured because of a failure to comply with the Occupational Health and Safety Act. The employer doesn't maintain a safe workplace. In situations where unions exist, I suggest that there's a greater compliance with the Occupational Health and Safety Act. If there's an unfair situation at work, a worker has access to the shop steward. A worker has a voice where they can say, "Do something, employer, about this workplace," and as a result, there are fewer injuries.

But what happens when somebody is injured or when somebody's fired unfairly? If a union exists, they can file a grievance if they're fired and they have somebody who can negotiate and, if it's a matter worth pursuing, who can appear on their behalf at a grievance hearing. If somebody

is injured and is no longer able to work, he can go to his union representative and the union rep will help him with his problems with the Workers' Compensation Board. Any of you who've had any experience with the Workers' Compensation Board know it can be a black hole of bureaucracy. The law is complicated and the bureaucracy itself is complicated, but these unionized workers have somebody to speak on their behalf.

What about non-unionized workers? What happens to them? First we have to consider, what about all the rights we have in Ontario? At first glance, an Ontario employee is well protected. In my view, with all the faults in all these statutes, our Workers' Compensation Act is progressive, we have progressive occupational health and safety legislation, we have a Human Rights Code that is probably the measure for any other jurisdiction in the world, we have the Pay Equity Act and we have a number of laws that apparently benefit workers.

The problem is that all the rights an employee has are hollow unless the employee knows what those rights are and has access to somebody who can speak on his or her behalf. Non-unionized employees frequently have no one to speak on their behalf, and their level of understanding of what their rights are is often less than in a unionized workplace.

When somebody who is a non-unionized employee is injured and he has difficulty with the Workers' Compensation Board, where does he turn? As the situation now exists, there is some form of advocacy. We have a system of community legal clinics, we have the office of the worker adviser, we have the unemployment help centre and we have constituency offices.

The problem with all of these is that they don't have the resources to meet the demand. At the legal clinic we've been turning away people for years, and what this means is that often they don't get their workers' compensation, so they have to go on welfare. That results in an expense to them, to their family and to the public as a whole that has to support this person. All of these systems are strained. I'm sure that any of you who've had experience with the worker adviser office will know that typically they run a serious backlog, and they're not everywhere in the province, like a union can be.

What unions therefore do by providing advocacy and education is bring some life to all of these rights. They mean that when somebody has a problem at work, maybe his working life won't be unnecessarily disrupted, maybe his income won't be necessarily disrupted, and maybe he won't have to turn to his family or the public for support.

These are important issues, because this committee has heard ideas like competitiveness and the cost the Labour Relations Act might have to the province. I can't argue that there aren't some costs and I can't really make an argument about competitiveness, but what I can say is that when people's rights aren't respected or when people don't have advocates to speak on their behalf, that has cost to the public as well. We have to look at both sides of the balance sheet.

Finally, what about the specific people covered by this legislation? I find it difficult to understand how anybody

can argue against the idea of people like domestics being entitled to join unions. These are the sorts of things that ought not to be up for discussion. When we talk about people like domestics or agricultural workers, often we're talking about immigrants, we're talking about the least articulate and the people who are the least able to promote their rights.

I'm asking you to support this legislation at least in so far as it encourages and allows people to have a ready means of advocacy and education about their rights. By doing so, hopefully that will save everybody money and grief. Those are all of my comments, if any of you have any questions.

**Mr Runciman:** I have just a couple of brief questions and comments. John's presentation goes on at length about non-unionized workers not having advocacy services and that unionization is a panacea that's going to solve all of their problems. I find it interesting when he talks about non-union people not having advocates, and perhaps I'm misinterpreting this, but it strikes me as a condemnation, if you will, of the elected representatives for this area.

It seems to me that there's a role to play, not only for elected representatives but for municipal officials and the civil servants at the provincial and federal levels whose responsibility it is to ensure that the legislation that John is speaking so highly of is properly enforced. If indeed it isn't, I think that these individuals have the opportunity to turn to their MPP, their MP, whomever.

They also have another office, the Office of the Ombudsman, in the province of Ontario which they can turn to. So it strikes me as passing strange. I gather that John's experience in Kingston and The Islands has been that all of these agencies and individuals are failing the non-unionized employees of this area. Perhaps John may want to comment on that.

**Mr Done:** Yes. Thanks for those remarks, Mr Runciman. Unions certainly aren't a panacea. There are good unions; there are less effective unions. What about other people who provide services? Kingston Community Legal Clinic, and I hope all of the clinics in the province, ideally works with people's elected representatives, as do other organizations like the office of the worker adviser. In fact community legal clinics owe their existence to elected representatives, because it's the elected representatives who, through ministries like the Ministry of the Attorney General, give us money to provide our programs.

It doesn't take anything away from the other advocates in this province to say that the demand for services in the areas of workers' compensation, unemployment insurance, family benefits and general welfare and all of the things that happen when a person loses his job or becomes injured is tremendous and overwhelming. What we have to look for are cost-effective ways so people can advocate for themselves. With a union, that means having a checkoff.

The timeliness of intervention is important as well. By the time somebody comes to Kingston Community Legal Clinic, he has lost his job and he is injured. We can only do so much at that time. A union exists at the workplace and can intervene when it's important.

What about the Ombudsman? The Ombudsman will assist an injured worker only when somebody has pursued the workers' compensation matter right clear through the Workers' Compensation Appeals Tribunal. The Ombudsman doesn't act for anybody before the Workers' Compensation Board and doesn't appear on somebody's behalf at the Workers' Compensation Appeals Tribunal. As much as they do, they don't do everything.

1550

**Mr Runciman:** I agree they don't do everything but one of these is working I guess. I've certainly appeared with constituents of mine at WCB hearings and WCAT, so I think there is a role indeed that perhaps you have glossed over, John. Perhaps I'm incorrect in that. Have you ever had any personal experience as a member of a union? Have you belonged to a union?

**Mr Done:** No, I never have. Under the Labour Relations Act, at least as it has existed so far, I haven't been allowed to bargain collectively because of my status as a lawyer.

**Mr Runciman:** Have you ever had any experience as a member of a political party?

**Mr Done:** Yes.

**Mr Runciman:** Which party, may I ask?

**Mr Done:** The New Democratic Party and the Liberal Party before that.

**The Chair:** You have lots in common with more than a few New Democrats. Some have reverted.

**Mr Offer:** It's like a tidal wave.

**The Chair:** Not to their credit.

**Mr Gary Wilson:** I'd like to just continue this a moment because I think Mr Runciman has lost the thrust of your argument. He seems to be saying that you enjoy being the voice for the injured workers and people who have been chewed up by the system, and he's trying to reclaim some of that role for himself. I think, as you said too, there are good unions and bad unions, good employers, bad employers and probably good representatives and not so good.

But the idea I think of what you're trying to say is that workers themselves should have the voice to look after their own interests. It's far better for workers not to be injured and not to have substandard salaries so that they can have a decent standard of living. This is what the role of legislators probably should be, to guarantee, or at least to work towards, those kinds of circumstances.

**Mr Done:** Yes, Gary, what unions mean is a greater degree of compliance. There's a check at the workplace. Employers are less likely to try and treat somebody unfairly if they know that they have to account to somebody. If an employer only has to account to a single worker, who may or may not be articulate and who may or may not know all of her or his rights, that's less of a check than having a union. Unions provide a great deal of resources. They provide education, they provide research and they're there for you if you have a grievance or if you have to go to the Workers' Compensation Board.



The resources in this province simply can't do all of that. If there isn't timely intervention and effective educated intervention, then people are frequently caught in a downward spiral of poverty and some of them never emerge.

While I enjoy my job, I don't enjoy being required to appear on people's behalf. Community legal clinics everywhere will tell you that they're overworked. We don't usually have the luxury of saying, "I'm sorry, I can't appear at some of these hearings for you." If people need money to eat, that's what we have to do. The statistics, the observations we have at the clinic, speak for themselves. We don't represent many unionized employees because the unionized employees have somebody to turn to.

When a union acts for somebody, the union is acting as a result of the dues people pay. When the community legal clinic acts and when the office of the worker adviser acts on behalf of somebody, it's because of the taxes we all pay.

**Mr Gary Wilson:** I was wondering too whether you have any experience with people coming to your clinic who have been put in the position of being forced into the role of a replacement worker, for example, because they have been collecting UI and it has been suggested to them that unless they apply for a job like that, then their benefits can be cut off, or even if they're on welfare and able to work, that also puts them in that kind of pressure, so that they are put in a very difficult position with regard to replacement workers. Again they are very vulnerable.

**Mr Done:** Maybe I can respond to the question more generally, just speaking about the desperation that people experience when they are unemployed. I don't doubt for a moment that to the extent there are jobs available for replacement workers that people will take those opportunities. I know that when CKWS was on strike, there were people who came from far away to Kingston hoping to get some of those jobs.

When people are unemployed, sometimes they don't get their unemployment insurance. Often they don't get their workers' compensation benefits. By the time somebody comes to our clinic with a complaint about workers' compensation, it can mean years, not just days or months, before these complaints are resolved.

On the food banks, the number of food banks in the province is a testament to how desperate people are. It seems to be apparent that where replacement jobs exist, people will do that because they feel an obligation to feed themselves and to feed their family.

**The Chair:** Mr McGuinty, a member of the bar.

**Mr McGuinty:** John, it's good to see you again. I think it's been about six years since we were on 77 Metcalfe together, right?

**Mr Done:** It's been a long time.

**Mr McGuinty:** I wanted to compliment you on your presentation and for reminding us of what it's like at the street level and dealing with the real effects of the recession and unemployment.

You've made reference to domestics. There's certainly no doubt in my mind they are a special group which requires some type of legislation that would assist them to

enforce their rights. Unfortunately, Bill 40 will not provide them with that assistance, because the Labour Relations Act as it presently stands provides that in order to have a bargaining unit, you have to have at least two people. Also, domestics work individually with one employer, so they will not gain any benefit under Bill 40.

But I want to take you to something else. You're in the business of advising people of their rights and then, if necessary, helping them to enforce those rights. When there's an organizational drive under way in a workplace, it is actually possible for a union to come about to be certified without an employee ever knowing there's a drive under way. That is theoretically possible.

**Mr Done:** Yes.

**Mr McGuinty:** I want to raise a question that my colleague Mr Offer raised earlier. What do you think of this idea? If there's a drive under way, we want to put this thing on the table. We want to bring it out into the open, post a notice: "These are your rights. There's a drive under way."

One of the things that has concerned me time and time again as a result of all the submissions we're hearing is that you know all of the goings-on when a drive is under way. I believe a union should be allowed to get in there and to organize, but I think it should be done above the table, and not below, where it's visible to all. People have said, of course, that I'm completely naive, that there's no such thing as a good employer. They're all bad and not going to allow that kind of activity to take place.

Anyway, let's just talk about the notice. What do you think of this idea of a notice?

**Mr Done:** I'm going to confess, Dalton, and perhaps it's because I know some parts of the amendments better than others, that I don't understand how an organizing drive can take place without somebody knowing it.

Now I imagine that in most workplaces it would be fairly apparent when this organizing drive's taking place, but I think if what you say is true, to the extent that this happens, I'd have two comments. Generally, I believe in the freedom of choice, and hopefully that's what I advocate for. I believe that people have the right to have the information necessary to make an informed choice, but at the same time, none of the legislation I've ever worked with is perfect. I think that, as people who make public policy, what we do is we balance rights against the others and we try to come up with something that's optimal.

I would hope that if the possibility that you've described exists, that is the sort of thing that could be plugged, but I hope it wouldn't be plugged with the result of serious damage to some of the more progressive reforms in the act.

**Mr McGuinty:** Now taking you at your word there with respect to the answer you have given me, essentially you find it difficult to believe that everybody wouldn't know anyway. If everybody knows, what's wrong with posting it and making it official?

**Mr Done:** Is this the organizing drive?

**Mr McGuinty:** Yes.

**Mr Done:** I think all I could say is, again I don't have much knowledge of the idea of posting, but it sounds, from the way you've described it to me, as if this is something that could, if it's necessary to include this in the act so that people are aware—this isn't a particularly educated response here, but I'd say, why not? That kind of thing doesn't hurt.

**The Chair:** That completes our time for this particular presentation. I want to thank you for coming here, sir.

**Mr Done:** Yes. Thanks for listening to me.

1600

#### ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 444

**The Chair:** Next is the Beechgrove Children's Centre, if the people speaking on behalf of Beechgrove Children's Centre will please come forward, tell us their names and describe their titles, if any. We've got your written submissions. Go ahead.

**Mr Gavin Anderson:** Thank you very much for having us here today. If you don't mind, I'm going to try to read this presentation—it might be a little bit more efficient—and then the two of us will entertain questions. I am Gavin Anderson and with me is John Smith.

I'm here wearing two hats today, like most people in this complicated society. I'm employed as a clinical social worker in the Kingston office of Beechgrove Regional Children's Centre. Beechgrove is a crown transfer agency and receives 100% of its funding from the Ministry of Community and Social Services. The centre delivers a wide variety of assessment and counselling services to emotionally disturbed children and adolescents in a six-county catchment area that includes Lanark, Leeds-Grenville, Frontenac, Lennox and Addington, Hastings and Prince Edward.

I am also president of Local 444 of the Ontario Public Service Employees Union. OPSEU is the sole bargaining agent for the 102 full- and part-time unionized employees of Beechgrove and our labour-management relationship is governed by the OLRA. I appear before you today primarily as an officer of my bargaining unit. I wear this hat with pride, knowing that the work of our local stewards helps bring stability, security and harmony to our workplace.

Although our responsibilities differ markedly from those of our managers, the leadership of our local is committed to the same ideals that inform our agency's mission statement. Our members want to bring the highest-quality mental health services to the children and families we serve, and we endeavour to do it with efficiency and sensitivity. Our workplace is a productive one, because the union has negotiated a fair collective agreement and there is a well-understood and effective means of resolving grievances when they occur.

What follows will largely relate to the concerns our local has regarding the proposed amendments to the OLRA. It will not touch on every aspect of the reforms. However, we wish to convey to the committee at the outset that the union is solidly behind the overall direction taken by the amendments proposed in Bill 40.

Our intention is to bring before you some of the issues which affect us at our workplace. Before beginning that exercise, however, I wish to introduce a brief but important digression.

I mentioned at the outset that I am a social worker with Beechgrove Children's Centre. When I wear that hat, I work with sole-support parents and adolescents. I am in daily contact with the marginalized workers who stand to gain the most through labour reform. I see the effects of poverty and vulnerability on the lives of those people who live without fair wages or protection from workplace abuse.

Let me tell you, as a therapist with two university degrees and 15 years' experience, no amount of sensitive listening or wise counsel can do for unorganized, disenfranchised workers what a union can. Anything which enhances the ability of working people to stand together and speak with one clear voice enriches the individual lives of those workers and the lives of those who depend upon them for material and emotional support.

Earlier this very week I was speaking with a 16-year-old client who recently began working part-time for a neighbourhood fast-food restaurant. His job has helped him learn about responsibility and hard work. He has a bit of money in his pocket and a sense of himself as something other than a delinquent. Working has been good for him, and, of course, the fast-food restaurant has profited from his labour.

When I asked this fellow if there was a union at his work, he told me there was none. He told me that anyone who talked union at work would be fired instantly. I asked if a boss had told him this and he said: "No, it's just something that I learned. I don't know how." I asked him how things might change if there were a union and he told me that he would get his 15-minute breaks like he's supposed to. He said it made his feet sore to stand for hours and hours without a break.

For all the good and appropriate things this adolescent boy is learning about himself and the real world of work, it strikes me as very troublesome that he's also learning to fear the bosses, to not talk about organizing or insist on getting his rest period for fear of losing his job.

I thank you for your indulgence and now return to the main purpose of our presentation.

Sectoral bargaining: My local's first commentary pertains to the issue of sectoral bargaining. Our employer is a children's treatment centre. There are dozens of crown transfer agencies just like ours across the province, with the same mandates, the same classifications and the same job descriptions.

In its February 1992 brief, *It's Our Turn!* Reforming the Ontario Labour Relations Act, OPSEU put forward the union's position regarding the consolidation of bargaining as distinct from the consolidation of bargaining units. It is a useful distinction across many sectors, but I will not use my time to repeat the arguments presented in that brief.

What I will do is elaborate on some of the disparities that we see right here in our workplace. I am presently working with our managers to settle a classification dispute regarding our nurses. In the course of researching this



issue, I discovered that the nurses at Ongwanada Resource Centre, an agency which partially overlaps our sector, receives salaries that are over \$6,600 higher than our nurses make. This is a disparity of 17% for nurses doing identical work at two agencies which are less than one kilometre apart.

There are many other examples of widely varying salaries and benefits within our sector. The result is frequent staff turnover. Employees move about as opportunities present themselves. It seems our agency is always advertising in the expensive careers section of the *Globe and Mail* to replace clinical and technical staff who have jumped to the Ontario public service or to other transfer agencies. The cost in recruitment and orientation, not to mention the lost productivity, is enormous for Beechgrove, yet my manager tells me that his colleagues in larger centres such as Toronto experience even greater staff turnover.

It would be bad enough if agencies in the broader public sector were losing talented workers to the private sector, but what we see here are costly migrations within the same family of employers.

Another hidden cost to the disjointed system of unconsolidated bargaining within sectors is the price of negotiating so many individual contracts that essentially define the same working relationships. As dues-paying OPSEU members and as taxpayers, we feel indignant that we are underwriting the costs of both parties in this endless series of redundant bargaining.

The present practice of going it alone at the bargaining table also leaves both sides exposed to the risks of whip-sawing and other negotiating ploys which occasionally win isolated advantages for one side or the other but generally add nothing but suspicion and resentment to the bargaining process.

For many years I worked in an agency in Quebec which was very similar to Beechgrove. In Quebec, major issues such as salaries, pensions and job security are bargained centrally, leaving the nuts and bolts issues of the workplace to be negotiated locally. This system resulted in provincial parity and a continuity not experienced in the present Ontario model. It also removed artificial tensions from local negotiations, as the employer did not have to defend salary offers that were not within its control.

This issue is to become even more salient to our local in the near future. The ministry is currently restructuring children's services in this area. There could be as many as seven separate agencies responsible for identical services, each acting as a separate employer at its own negotiating table. This local will be actively pressing for consolidated bargaining for the seven agencies, just as we are active in OPSEU's campaign for sector bargaining within the province-wide children's treatment sector.

At this point we are asking that the amendments to the labour law empower the OLRB to consolidate bargaining in the broader public sector at the request of either party.

1610

**Certification:** On the surface, this is not an issue that would seem to be very relevant to our local. We are already certified. The abovementioned ministry reorganiza-

tion, however, will result in many changes in our workplace. It is quite likely that Beechgrove will not exist within two years and the bargaining unit will have to be reorganized to accommodate the new employment structure.

To elaborate, there are around 14 children's treatment centres currently operating in our six-county area. Beechgrove is the only regional centre, and the only one with offices and employees in every county. The others, with the exception of Sunnyside Children's Centre in Kingston, are small. All are centred in one city or county.

When the reorganization is completed, there will be a single centre in each of the six counties as well as perhaps a separate centralized residential facility serving all six counties. Employees of the present 14 centres will be reallocated to the new centres.

The complication will be successor rights and the certification of new bargaining units. Three of the 14 present centres are affiliated with OPSEU and a fourth is affiliated with the Canadian Union of Public Employees. The other 10 centres are not unionized.

Members of this bargaining unit are likely to find themselves employed at each of the six or seven new employers. In some instances we will form the largest single block of employees; in others we will be a minority, outnumbered by workers who were previously not unionized.

Our interest will be to at least preserve the salary scales, pension and welfare benefits, seniority rights and other contract language that we have won over our 25 years of collective bargaining. We will want to do that by certifying and reaffiliating ourselves with OPSEU.

We applaud the government's intention to remove unnecessary impediments from the certification process and urge the committee to endorse those amendments which limit interference from employers.

**Replacement workers:** This local has never had to go on strike, so we have no real-life experience with replacement workers. As employees of a centre which provides essential human services, and with the right to strike, it is, however, an issue that concerns us greatly.

Our members work very closely with our clients, especially those staying in our residential units. We, more than anyone, are in a position to assess the effect a withdrawal of services would have on our clients and their families.

What we believe would make sense is for us to sit down with our managers and negotiate a service schedule for implementation should there ever be a work stoppage. In this way, our expertise could be used productively in the establishment of meaningful protocols that would fit the needs of our service users.

Disputes in this process could be resolved through arbitration. We advocate for the exclusion of essential services requirements in the OLRA and support the notion of locally negotiated service schedules to accommodate local needs.

In conclusion, I wish to thank the committee for considering these observations and ideas. I sincerely hope that some of what you have heard is useful.

Allow me a personal anecdote in closing, though: I was raised in a home where unions were viewed with suspicion and even hostility. My father was a manager in a shipping

company and I remember many supper conversations dominated by his stories of alleged abuses and corruption in the unions he dealt with.

But when I was 17, I got a summer job as a dishwasher with the CNR on the dining cars. The next summer I was promoted to a third cook at a small raise but a significant improvement in working conditions. The third summer, I bid for a third cook's position again but had to settle for a dishwasher's job.

After a month on the job, I realized that the third cook on my crew had less seniority than I did. It turned out he was a trainee on some company program and had been parachuted into his position without a competition. I complained to a fellow worker and was overheard by another worker who identified himself as a union steward.

Without further ado, he marched me to one of the top floors in the CNR headquarters building in Montreal and demanded to see a boss. The boss listened to my story, and the next thing I knew I was given a position as a third cook, all back wages owed and time off with pay until I was caught up with my new rotation.

This episode had a very real impact on me. I realized that unions were not about corruption and violent confrontation. My union was there to give voice to my concerns and make sure I got a fair shake.

It is over 20 years since that summer in Montreal. I am now a local president, and of all the satisfactions I derive from my volunteer position, none surpasses the fulfilment I experience when I am able to quietly remedy a simple wrong for a young or frightened worker.

Last year two part-time workers requested maternity leave from Beechgrove. Full-time workers have a top-up provision that supplements their unemployment benefits while on maternity leave. Management held the position that part-time workers were exempted from this provision, based on a clause in the collective agreement providing them with money in lieu of welfare benefits.

The union argued successfully that the top-up was not a welfare benefit in the manner intended by the contract, and that the practice was discriminatory. The thank you that I got from those young mothers when they discovered that there would be a few extra dollars coming into their homes warmed my heart.

You on the committee and your colleagues in the provincial Parliament have the opportunity to magnify this small human triumph tens of thousands of times by reforming the Labour Relations Act. When the act becomes fairer, the workplace will become fairer. When that happens, all of Ontario wins.

**Ms Murdock:** Thank you for taking the time to come. Just a quick comment, and then I'll ask a question.

The exclusion of essential services provisions: Under subsection 73.2(2) they've designated, particularly in the children's services area and care of the sick and the elderly and so on, but under subsection 73.2(15)—you have to almost read the essential services section, subsections (3) and (15), together, because in that part there's no time frame. Actually, the idea is that eventually, once it's starting to be utilized, people will negotiate as to who would be an essential service or essential replacement worker when

a strike occurs; rather than doing that at the time of a strike, the recommendation is of course that you do it when you're working in at least some kind of harmony.

My question goes back to a presentation that was made to us in Toronto by the Ontario Nurses' Association. You haven't referred to it in here except in relation to the fact that you do represent nurses, so I'd like your opinion on this. Their request of us was to include the profession of nurses in the professional exclusion of architects, lawyers and so on. You probably haven't directed your mind to this, but I am wondering if you have any thoughts on the subject.

**Mr Anderson:** I'd be hesitant to get into that. We represent nurses because we represent everybody. It's more of an industrial union than a trade-based union, so our nurses are in the same bargaining unit with other professionals, with other support staff. We often make reference to ONA pay scales, for instance, as evidence of some disparity between our nurses and other nurses working in the province, but I wouldn't want to comment on that union's position regarding their status as professionals. I'm sorry, I really can't.

**Ms Murdock:** That's fine. I just wondered, because it was the only presentation of that type, and I wondered if it was going to interfere or cause problems with any other.

I know Mr Hope has a question. He's looking at me intently.

**Mr Hope:** Thank you for your presentation. I got in here a little late, after your presentation, but one of the things I noticed going through it was that you made reference to young people coming into workforce. Maybe I'm going to stray a bit, but in our education system we forget to talk about labour history. We do talk about business practice, entrepreneurship, but in order to create a more cooperative relationship, which we're talking about in the modest enhancements of the labour relations reform, would it be an approach to put labour history programs in place to make people understand more? I'm asking for your view, because you made reference to yourself understanding the benefits of a trade union.

I'm just wondering, would it be to the benefit of the province of Ontario and maybe to the society of Canada in general to implement more labour history in our school system, so that whether you walk out as a big businessman or as a worker on a shop floor or wherever the workplace is, you'll have a better understanding of the trade union and its involvement in society? I'm asking because you made reference to the age categories.

1620

**Mr John Smith:** I'd like to answer that. As a child and youth worker, when I came into the workforce 22 or 23 years ago, child and youth work wasn't a profession. It was a job, and it was a job for a short period of time. It wasn't until I received support from unions that I decided this is a profession and that the work I do is valuable.

Young people coming out of colleges were used in our field to give cheap labour. There has been a history of using child and youth workers for a period of two years, and there was always talk of a two-year burnout. After the



two-year period, which included pay raises and seniority, people left. There was lack of support, and because of that lack of support and stresses on the job, people left. It wasn't a job where people could raise families. It wasn't a job where people had sufficient support and financial gain to continue on the job.

Young people need to know more about organizing and their rights so they can pursue a career such as child and youth work, which wasn't a career before. Child and youth workers do a very important job in this field.

**Mrs Fawcett:** Thank you for your presentation. I have grave concerns, as you do, especially around the replacement worker provision. As you are a children's service that really requires expertise, there might be some instances where even replacement workers being brought in would not be exactly what was required. In fact, if there couldn't be any replacement workers, then things might really be in jeopardy for children. I know Ms Murdock tried to allay your fears, but the wording of that particular clause with the word "may" and so on—could you explain to me why you are a little worried about that particular provision?

**Mr Anderson:** We're not technical experts on the legislation, so rather than trying to describe what we believe the legislation states, we're trying to put our view forward and leave it up to the legislators to shape that into the law and the amendments. What we're basically looking for is the opportunity, using our expertise, to sit down with our managers and to negotiate locally a service schedule up front and, as was suggested before, perhaps in advance of any future breakdown of negotiations, so that should we find ourselves in a strike situation, we could pull out this service schedule which would clearly identify what the obligations of the union were in terms of providing services.

If the law does that, if the amendments do that and if that's the effect of the law, then we will be satisfied. How you write that in or how you make that happen, I'm not sure. But if you understand what we would like to see happen, then we'd have the confidence that you'd work that into the law if you can.

**Mrs Fawcett:** Then, as you have said here, you advocate for the exclusion of the essential service provisions in the OLRA.

**Mr Anderson:** We would not want to see some sort of global statement that this sector is an essential service and therefore does not have the right to withdraw its service or its work. We would prefer that, as we do have the right to strike in a general sense, although nobody's anxious to enter into that type of situation, rather than just having some kind of global designation that, "No, your child and youth care workers cannot leave their work," we sit down with our managers and negotiate that.

It may well be, particularly in our residential facility, that we agree that this is the minimum amount of support that has to be provided and it will be provided by union workers according to this schedule, working with or without managers; just generally defining and being done well in advance of the dispute and being settled through arbitration if the two parties are unable to settle on that service schedule.

**Mr Runciman:** I have a couple of comments outside of the brief. You're talking about the effects of poverty and vulnerability in the lives of people who live without fair wages, protection from workplace abuse. You seem to be, if you follow the text, equating fair wages and protection totally with unionization.

There's also obviously a presumption that jobs are going to be there to achieve those fair wages and protection through unionization. As you are in the public sector, I guess I understand that. That seems to be a view in the public sector, that jobs are somehow magically going to be there for ever and a day.

I'm just wondering how you deal with the other side of these arguments we're hearing as legislators, that this legislation is going to result in significant job losses in the province. It's one thing to say we want fair wages for everyone, and I'm sure we all do, but to get fair wages we first have to have those jobs. How do you respond to those arguments we're hearing about job losses and the devastating impact—those are words that are being used—on the economy?

**Mr Anderson:** If I could just back up a moment, your reference is to the first part of the text. In my work, I see people who are oppressed by a large number of things. To condense it down to simple form, if I deal with somebody who's hungry and depressed, the first thing he needs is food. The first thing that has to be addressed is the objective circumstance of them not having food, then we can work on the depression.

I don't mean to imply that once somebody's in a union he's going to enjoy perfect mental health or happiness. What I am saying, though, is that when I see people come into my office who feel abused or even tyrannized at work or are not getting fair wages, then what those people need in the first instance is some kind of organization at the workplace. They may also benefit from counselling and the type of support I can provide as a social worker.

In terms of jobs, my feeling is that with a lot of the people I see, it's not so much the lack of jobs, it's the movement from job to job to job. Jobs are out there in some of these service industries. They manage to find jobs, not always high-paying skilled jobs; often jobs, as an example, in fast-food restaurants, things like that. These jobs are not going to flee. Harvey's and McDonald's and Swiss Chalet are not going to go to Mexico or Taiwan because of this legislation. There will still need to be people to fry french fries and sling hamburgers, and I don't think it's reasonable to say these people should be denied the right to organize and to negotiate directly with their employers.

What our local is saying on behalf of those people who are not as yet organized is, let's support reforms that make it easier for people in these sort of marginalized workplaces to organize so that they can take care of their own business.

**Mr Runciman:** That is, in my view, a very convoluted response, to say the least. It's not dealing with what I talked about, the 295,000 jobs projected to be lost. You're saying we're not going to lose Harvey's or McDonald's. You're saying in respect to this kid working at a hamburger

spot that they should unionize Harvey's and McDonald's. I guess what you're doing is endorsing \$10 hamburgers.

One other thing I wanted to make a reference to here is that you're talking about the disparities, about consolidation of bargaining. I guess I have some problems with that as well. You say you're indignant as taxpayers, but as a taxpayer myself, I have some problem with the idea of consolidation, because I don't necessarily believe that's going to be in the best interests of taxpayers. In fact, I think it tends to put the employer over a barrel to a significant extent, that he doesn't have the kind of bargaining flexibility we'd have without consolidation.

You mentioned salaries at Ongwanada, \$6,600 higher. You mentioned comparisons with ONA pay scales. Do you ever take a look at comparisons of your pay scales, as an OPSEU-represented organization, with pay scales in the private sector? Do you ever take a look at what a secretary who works for your organization is making versus a secretary who works in the private sector? Do you ever take a look at those things?

**Mr Anderson:** I have some awareness. Salaries vary. I'm a social worker and more interested in what social workers make in the private sector, and many of them make considerably more than what I made.

1630

**Mr Runciman:** If you're an indignant taxpayer, you may want to take a look at how your salaries compare with workers in the private sector and people who are concerned about bottom lines. Thank you, Mr Chairman.

**The Chair:** Thank you. Go ahead, sir.

**Mr Smith:** I was just going to make the comments around fairness in the job place and salaries in the private sector. Working in the private sector most of my career, because most of my employers were not unionized employees, I noticed that our wages as workers were lower wages. Whenever we asked for more money we were given the idea that we were working for a non-profit organization, and in those non-profit organizations somebody was making money. In every one of those organizations I worked in, someone was becoming a millionaire, and they were becoming millionaires at the cost of the workers not making the salaries they deserved.

**Mr Runciman:** Better move to Cuba then. That's the last bastion.

**The Chair:** People speaking on behalf of Local 444, OPSEU, I want to thank you. Perhaps a visit to Cuba would be an interesting exercise, Mr Runciman; I'm not sure. Perhaps some MPPs will visit there and come back with some direct reports. I know I won't have a chance to because I'm committed to this committee.

Interjection.

**The Chair:** Try again, Ms Fawcett. Three rounds and you're out, and that's twice.

In any event, thank you for being here. You've made a very effective representation on behalf of your local and your profession. We appreciate your coming here and we're grateful to you.

# ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 432

**The Chair:** The next participant is Local 432. Go right ahead. Tell us who you are. Your name is in the first paragraph of your submission, but your title, and carry on with your comments, please.

**Ms Lynn Park:** Thank you, Mr Chairman, for allowing me the opportunity to speak. My name is Lynn Park. I am pleased to speak to you today as a member of the Ontario Public Service Employees Union. The Ontario Labour Relations Act covers the workplaces of about 23,000 OPSEU members in the broader public sector.

My background includes secretarial experience in an unorganized workplace in which no benefits or pension were offered to employees. This was my main reason for leaving and joining the Ontario public service sector in 1979. Since joining the social service sector, I have had positions as a supervisor of clerical services, an income maintenance officer and, most currently, a program review officer.

I am here to support my OLRA colleagues as well as unorganized employees whose rights are limited by the current law. As a crown employee, my bargaining rights too are sharply limited. My work experience and knowledge of what working people, organized and unorganized, are currently struggling for is my focus.

I wish to comment today on the long-overdue need to address the vulnerabilities of mainly women workers, often members of visible minorities and part-time unorganized workers or employees with whom I have regularly been in contact as a social worker.

A central tenet of the work I have done for several years as a family benefits field worker is helping people, most often sole-support families, to develop abilities to help themselves, to plan for the wellbeing of their families and to find ways of organizing their futures.

Bill 40 can be judged in part on the extent to which it fulfils a similar purpose for Ontario's changing workforce. To what extent will the OLRA amendments empower those workers and their families who are frequently marginalized in precarious sectors of the economy?

My work with community and social services has brought me to the lives of many workers, especially women, young and old, who are forced to find ways of coping with all those sections of the current OLRA that inhibit union organizing and effective, timely collective bargaining. One has to wonder why working women today are compelled to rely from time to time on welfare and social assistance programs to support them.

I'm one of the lucky workers. I have a job, a job that pays benefits, and I have resources and a collective voice to bargain for my rights. Many women I deal with have few resources to turn to and little or no voice to collectively negotiate even the simplest of work options, such as flexible work hours, let alone benefits or pension.

My own personal experience of negotiating a job sharing agreement was not easily accomplished. It took one and a half years of negotiating to put into place. Imagine the limitations for those with no resources or a collective voice to lobby before an employer.



I have worked with hundreds of Kingston area women arranging monthly financial assistance to supplement meagre wages, health care benefits and strategies to fill the gaps in their family needs. Sadly, these gaps often result from having no union, no job security, or from revolving in and out of part-time bargaining units where the labour board procedures have often kept their voices weak.

Women tell me of the hardships they experience from having to stop work because of no drug plan or regular work shift, and the complications of arranging day care. These women are struggling every day to meet basic necessities and have no voice to negotiate these basic needs, let alone plan for a pension.

Some of the amendments do appear to go a considerable way in bringing down the barriers to effective bargaining for part-time workers. In the section of the bill covering bargaining unit structure and configuration, the reforms are intended to have the labour board combine full- and part-time workers in one unit.

From my viewpoint, this is the kind of change that is needed. Aside from all other obstacles to getting a union certified, this reform will at least create fewer weak bargaining units. The province's labour laws have to recognize the reality of the new workforce, with its thousands of permanent part-timers. When these employees are able to benefit fairly from collective bargaining, I believe many of the families that I assist will break from the cycle of poverty, and in this way our entire communities are much richer.

The ability to negotiate living wages, benefits, meaningful job security provisions, even pensions, should hopefully be facilitated by the amendment that enables the board to combine two or more units of the same union with the same employer. I think lowering the amount of bargaining fragmentation is another important step in building economic security for many families.

Assisting families as they cope with financial hardship has convinced me that Bill 40's reforms in the areas of the organizing and certification processes are critical. For too long the outdated assumptions of the act have failed to deal with the patterns of many women's work. While fortunately the systemic barriers to non-traditional jobs in industry and elsewhere are slowly falling, the OLRA is stuck in the past. It is very important to get into law fair access for union organizing activities and picketing at work sites like malls. Small workplaces are the norm for most of the clients I work with. This fact ought not to deny them organizing opportunities.

Similarly, to deal with obvious power imbalances in so many women's workplaces, reforms to facilitate quick hearings on complaints of illegal discipline or dismissal are vital. The relative ease with which the democratic rights of marginalized workers can be frustrated has got to be addressed. I am pleased to see this issue covered along with the elimination of anti-union petitions. These have regularly been shown to be the result of intimidation or threats.

In my work I see people go through a host of struggles. They recover from job loss, cope with inadequate or costly child care, scramble to retrain and re-enter the workforce. After 15 years of no reform, it is clearly time that we

eliminate the obvious barriers to working people's rights to organize.

The changes are modest, and there are important omissions, such as the power the labour board should have to facilitate sectoral bargaining. You will have heard much on this from representatives of workers in the smaller workplaces.

I hope you will strengthen your resolve, despite the criticism, and bring Ontario's labour law in line with the 1990s realities and needs of working women and other groups of disempowered workers. Thank you for the opportunity to comment.

1640

**Mr Offer:** Thank you for your presentation. I think you'll not be surprised that much of the work you do day in and day out is very well understood by MPPs certainly, and I think you've probably had a great deal of contact, as some of the issues which you've addressed are ones that we also, unfortunately, address on a day-by-day basis. It would be nice if there were less need, but we all know that's not what's going on right now. I certainly recognize, as all will do, the issues that you address.

I guess I have just one difficulty. It's somewhat more in line of a question. Though I recognize and agree about the issues you address, it seems through your submission that unionization is the panacea to do away with all of these issues, and I don't see that. I see it as a viable vehicle in which workers' rights can be enhanced. I have no problem with that. I just don't see it as being the only way in which a worker's rights can be protected and enhanced in this province. There is employment standards legislation, there is a whole variety of other mechanisms now in place.

I guess I would ask you, being very sensitive and sympathetic to the work that you're doing, where is it in Bill 40 that you would see help for those individuals you and I and everyone else deal with on a daily basis? Where are the enhanced benefits in Bill 40?

**Ms Park:** I guess I can speak to the sector of women I see, and the vehicle of unionizing would help support them in whole wide, varied facets, in education, in understanding the process to address their needs. Many women are so busy struggling with just meeting their daily needs, they're very strained and have no education or means to collectively voice their rights and their concerns to an employer.

**Mr Offer:** In the area of organizing—this is a matter which has just been brought up, I think, for the first time this afternoon—where there is an organizing drive in the workplace, would you support an amendment to the legislation that would require notice of the organizing drive to be posted where the rights of the workers are listed, where their rights and responsibilities under the Labour Relations Act are listed, in order to be free from the intimidation and coercion we've heard about?

**Ms Park:** I'm not sure I would agree with posting. I think it's important that the information get to workers, and I guess I would support what John Done said earlier, that when there is a driving force being taken on, many workers are aware of what's going on. I do support that the

information needs to get out to everyone, but that vehicle, what form of information-sharing that takes, I guess I would leave to you to decide.

**Mr Offer:** I guess I'm stuck on this. I just can't see why, in a workplace where an organizing drive is being commenced, everyone would not accept it as just a given that the workers be impartially informed as to their rights under the Labour Relations Act, free from an organizer saying so, free from an employer saying so, and let them read it in whatever language they wish to read it—just information with a freedom to choose. I just don't know why there would be such an objection or concern about full information to all the employees.

**Ms Park:** Again, I guess I can't speak to why people wouldn't do something that sounds quite logical. It may be out of fear or intimidation or lack of knowledge; I don't know.

**Mr Runciman:** I suspect that the witness, as a result of the economy in the past couple of years and the fact that we have about 10% of Ontario's population on social assistance, is seeing a lot of disturbing things in her line of employment. She mentions coping with people who have problems with the Ontario Labour Relations Act.

I would think that wouldn't be the big problem out there; it's the state of the economy, and the fact that there simply aren't enough jobs to go around. Of course, as the witness knows, we have a lot of concerns being expressed to committee members about these initiatives creating additional difficulties with the economy and fewer jobs, and in fact perhaps placing more people in dire circumstances in respect to social services. I gather you don't believe those concerns have any merit.

**Ms Park:** Well, I'm not an economist, but I believe if there were fairer opportunities for workers to have wages and benefits, most of that money would then come back into the economy through basic needs and necessities.

**Mr Runciman:** Have you ever done any cross-border shopping?

**Ms Park:** No.

**Mr Runciman:** Oh, you're the one. There's the one, Mr Chairman. Let's note this.

I appreciate what the witness is telling us here today. I'm sure she's very sincere about her concerns and her views. Taking my political hat off, I ran a small business for a couple of years with my father. It was a weekly newspaper and commercial printing business, and we couldn't afford to pay an awful lot. In fact, we lost money. We were paying minimum wage to many of our employees, and we had very few benefits, but it's not that we were prospering or becoming millionaires at the expense of our workers, as someone suggested. I think we were reasonably good employers, but you have to sell your product once it's produced, and it has to be at a price that people can afford. That's a concern, and I think this witness and perhaps others, especially in the public sector, are insulated from those realities, in my view.

They believe, in many instances—perhaps this witness is not one of those—that the money pot is bottomless even though this government is running an annual \$10-billion

deficit. I think reality is going to come home to the public service in the not-too-distant future as well.

I don't doubt the sincerity of your concerns, but I'm concerned that you're only looking at this in a very narrow way and not looking at the broader picture in respect to the impact that a bad economy has on all of us, especially the most vulnerable people in society.

**Mr Hope:** First of all, Lynn, thank you for the presentation. Hopefully, you're not afraid of appearing before this committee. Being the parliamentary assistant to the Ministry of Community and Social Services, I've heard from some in the private sector that they're afraid to come before this committee, afraid of reprisal. I hope you're not afraid of reprisal for this presentation.

Also, I know Mr Runciman is willing to tell where his suit was bought and where his car came from.

But dealing with the presentation, Mr Offer says that in the workplace we should tell people about their rights. I ask you, should we start in our education system to teach people about their rights as workers, the employment standards and labour relations, making more understandable the rights they have in society? As you indicated, you talk to a lot of people when they become victims. I have a similar role when they want to find out what their rights are when they've lost their jobs. They want to know about the Employment Standards Act; they've never picked up the piece of legislation before.

I'm going on a little long here, but I'm curious. Would advance information help the women you make reference to, more knowledge? It was part of the discussion paper, and I've been told by the parliamentary assistant that the business community was very adamant about making sure the workers don't know about their rights. What if we went one step further and through our education system started educating and making people well aware of their legal rights in this province.

**Ms Park:** I would support that. Probably my primary role is to educate people. They come with a whole variety of concerns and issues and scenarios. You never find any two clients with the same issue, and quite often they're seeking information. So any way that can be brought to the people to educate them, I certainly think there would be value in that.

1650

**Mr Hope:** Mr Runciman said that you work for a public sector union and think there's a bottomless pit. As you talk to these workers, these people who have lost their jobs, working just to make ends meet, to put food on the table, I guess you're sitting there thinking: "Who cares about them? I'm going after major wage increases and forget about that." Is that your approach towards what you're viewing as part of collective bargaining, that you really don't care?

**Ms Park:** No. Actually, I think my whole presentation is bent more towards those people who have less opportunity to bargain and need to have their wages and benefits. I'm always surprised at having, say, a bank teller approach me for social assistance and finding out that he or she needs benefits and doesn't have a drug plan, doesn't have



any way to provide dental care for her children. I think my whole focus is just to put to you some of the real day-to-day issues that I deal with, that I see. I would support any collective means to help these people with a voice to be heard.

**Mr Hope:** You're talking about workers, some of them probably still employed. With the big fear that's going on about the modest labour relations reforms, I'm sure there are a lot of people out there who are wondering what's going on and really don't have a clue about labour relations and maybe are holding back from spending, which is having an economic spinoff effect. They're not spending in our communities because they don't know where their job is going to be tomorrow.

From your perspective in talking to people on a day-to-day basis, are you hearing people saying, "I really don't know what's going on with my employer, whether they're going to stay here," and adding fear and hurting a number of businesses in our community?

**Ms Park:** No. I think the people I come in contact with would support these kinds of reforms, these changes. Again, I'm not an economist, but I would see it as going back into the community. It's a community of people, and that includes employers and employees. By jointly putting in reforms that would facilitate money going back into the community, that certainly would be of value. There is no great fear that a lot of these small businesses are going to venture off into the US or Mexico. A lot of them are here to stay.

**The Chair:** I want to tell you, Ms Park, that the committee thanks you for your presentation on behalf of OPSEU, Local 432. You've been an eloquent spokesperson for the membership of that local, and we appreciate and are grateful for your contribution to this process.

This is the completion of this hearing day in Kingston. I want to thank the committee members for their cooperation during the course of today. I want to thank those people who made presentations either as individuals or on behalf of their respective associations and organizations, and those people whose interest in this issue motivated them to come here and sit as observers.

I want to point out that not only are MPPs involved, but of course staff people. On my left is Avrum Fenson, a research officer with legislative research services. They provide an outstanding service to this committee and to other legislative committees. The proceedings are recorded by way of Hansard, and that's made possible by Pat Girouard, on my far right at the table, who works with Hansard, and by Mark Levesque and Dimitrios Petselis, who operate the electronics and make sure that everybody is recorded accurately. As well, a clerk accompanies this committee, Todd Decker, and we want to thank him for his assistance.

We have in addition David Augustyn, a co-op student from the University of Waterloo, who has been working and travelling with this committee for the last several weeks. This is his last day with the committee. He returns to school within the next couple of weeks. This committee and I join in acknowledging the skill with which he performed his role as a co-op student. We thank him for his assistance and we wish him well in his studies at the University of Waterloo. It should be noted that David's from Port Robinson Road West in Thorold, in the heart of the Niagara Peninsula.

We want Gary Wilson to please convey to his constituents in the city of Kingston our gratitude for their hospitality for the last day and a half.

Subject to any other matters being raised—Mr Runciman?

**Mr Runciman:** A brief point of order, Mr Chairman: As a substitute member of this committee and a veteran of the Legislature for 11½ years, I want to compliment you on your chairmanship of this committee. You do an outstanding job. I also want to compliment you on that new shirt.

**The Chair:** God bless you, Mr Runciman. I had no choice. I made my contribution to downtown Kingston: I didn't pack enough shirts for the week.

Thank you people. We're adjourned to Toronto, until Monday at 1:30 pm. Take care.

The committee adjourned at 1656.







CONTENTS ( *continued from overleaf* )

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\*In attendance / présents

**Clerk pro tem / Greffier par intérim:** Decker, Todd

**Staff / Personnel:** Fenson, Avrum, research officer, Legislative Research Service



## CONTENTS

Thursday 27 August 1992

<b>Labour Relations and Employment Statute Law Amendment Act, 1992, Bill 40</b> . . . . .	R-885
Kingston District Chamber of Commerce . . . . .	R-885
David Cunningham, second vice-president	
Canadian Union of Public Employees, Ontario Division . . . . .	R-886
Sid Ryan, president	
Ed Scott, Kingston area representative	
Joe Martin, president, CUPE local 234	
Gloria Morris, president, CUPE Kingston district council	
John Elder, solicitor, legal department	
Ontario Hotel and Motel Association, eastern Ontario region . . . . .	R-891
Valerie Nicoll, representative	
Peterborough and District Labour Council . . . . .	R-895
Dean Shewring, president	
Robert Freeman, member, labour legislation committee	
Kingston Frontenac Home Builders' Association . . . . .	R-901
Bruce Sheen, chair, labour relations committee	
Gary Eskerod, member	
Aerospace Industries Association of Canada . . . . .	R-905
Fred Sutherland, president	
Peter Broadhurst, chair, human resources committee	
CAW Canada . . . . .	R-910
Glen Myers, national representative	
Kingston and District Labour Council . . . . .	R-915
Charlie Stock, president	
Kingston Community Legal Clinic . . . . .	R-919
John Ross Done, executive director	
Ontario Public Service Employees Union, Local 444 . . . . .	R-923
Gavin Anderson, president	
John Smith, vice-president	
Ontario Public Service Employees Union, Local 432 . . . . .	R-927
Lynn Park, unit steward and board member	

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*Continued overleaf*



## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Monday 31 August 1992

### Standing committee on resources development

Labour Relations and  
Employment Statute Law  
Amendment Act, 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Lundi 31 août 1992

### Comité permanent du développement des ressources

Loi de 1992 modifiant des lois  
en ce qui a trait aux relations  
de travail et à l'emploi

Chair: Peter Kormos  
Clerk pro tem: Todd Decker

Published by the Legislative Assembly of Ontario  
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### **Table of Contents**

Table of Contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

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La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday 31 August 1992

The committee met at 1400 in room 151.

### LABOUR RELATIONS AND EMPLOYMENT STATUTE LAW AMENDMENT ACT, 1992 LOI DE 1992 MODIFIANT DES LOIS EN CE QUI A TRAIT AUX RELATIONS DE TRAVAIL ET À L'EMPLOI

Consideration of Bill 40, An Act to amend certain Acts concerning Collective Bargaining and Employment / Loi modifiant certaines lois en ce qui a trait à la négociation collective et à l'emploi.

#### CANADIAN MANUFACTURERS' ASSOCIATION

**The Chair (Mr Peter Kormos):** It's 2 o'clock and we're resuming these hearings into Bill 40. The first participant this afternoon is the Canadian Manufacturers' Association. Will those people please have seats in front of the microphones and tell us their names and titles, if any, and proceed with their submissions. We've got your written submission, which will of course be made an exhibit and form part of the record. Go ahead, sir. Please try to save at least the last half of the half-hour time frame for questions and exchanges.

**Mr Ralph Edwards:** Good afternoon, Mr Chairman and members of the committee. My name is Ralph Edwards and I'm chairman of the Ontario division of the Canadian Manufacturers' Association. Personally, I am president and general manager of the G. H. Wood Co. With me are Paul Nykanen, vice-president, Canadian Manufacturers' Association, and Ian Howcroft, CMA's employee relations policy adviser.

The Canadian Manufacturers' Association appreciates this opportunity to present to you our views and concerns regarding Bill 40. Before I address the issue, I would like to take a moment to mention a few things about our association and about the importance of manufacturing to Ontario.

The CMA was founded 121 years ago and today is Canada's oldest and, we believe, strongest industrial association. The CMA is unique, representing companies of all sizes from all sectors of manufacturing and from all regions of the province and indeed the country. Our members produce approximately 75% of Ontario's manufacturing output.

Manufacturing is often described as the engine of our economy, and with good reason. In Ontario, the sector directly employs 864,000 people and another one million jobs are indirectly dependent on manufacturing. Furthermore, these jobs in manufacturing are among the best-paid jobs on average, and these well-paid jobs allow workers in our sector to enjoy one of the highest standards of living in the world.

However, the changes proposed to the Labour Relations Act in Bill 40 we believe threaten these jobs, the

manufacturing sector and the prosperity of the entire province. We believe it is harmful legislation, and opinion polls indicate that it does not have public support. The employer community also opposes the changes, leaving only organized labour in favour.

A number of independent studies have already demonstrated that if Bill 40 passes in its current form, there will be a loss of jobs and investment in the province. Companies are currently making investment decisions for future expansion and Bill 40 is a major deterrent to attracting these dollars to Ontario. A decision not to invest in Ontario will not be something that most companies announce publicly. Rather, our economy will continue on a slow and steady decline through attrition if Bill 40 is passed.

Rather than contemplating harmful legislation, government should be focusing its efforts and limited resources on igniting Ontario's economy. It must first convince investors that Ontario is open for business and that investing in Ontario is a sound economic decision.

Bill 40 works against this because it is geared to benefit a select group of senior trade unionists at the expense of individuals, employers and the greater public interest. The bill is a result of cherry-picking parts of other labour legislation in Canada to create a bill completely out of step with economic reality. The government must work at improving our competitive position, not undermining it.

The CMA has long recognized and promoted the importance of labour and management working cooperatively to improve a company's, and hence the province's, overall competitive position. The manufacturing sector has a great deal of experience in labour relations and in most situations there are mature bargaining relationships. It is also important to note that many companies have excellent relations with their employees without the need of a union.

It is to no one's advantage to have acrimonious and confrontational labour-management relations, but we feel this will be the result if Bill 40 is passed in its current form. The government states that the bill will improve labour and management relations, but we believe this is wishful thinking. The situation will worsen if the rights of one party are removed and the power of the other party enhanced and increased.

Time will not permit me to address all areas of the bill where we feel changes are required. However, I will provide you with CMA's position and concerns on some of the major issues and request that you include our proposed changes in your recommendations on Bill 40.

**Purpose clause:** We do not feel it necessary to have a purpose clause, as the current preamble appropriately and properly sets out the tone and tenor of the act. This proposed purpose clause dramatically alters how the act will be applied and would recognize only the rights of organized labour, enhancing its bargaining position and making



it easier for it to organize. It goes far beyond the promotion of harmonious labour relations and into the realm of determining results and deciding what will be included in the collective agreement.

While we have strenuously opposed the addition of a purpose clause, we find this particular clause objectionable. It would be used by the labour board, first-contract arbitrators, rights arbitrators and others in discharging their expanded responsibilities. It would convert what are supposed to be level adjudicative playing fields into processes which would be raised by unions when their persuasive and/or economic powers do not achieve their desired goals. The result would be to create a shortcut or alternative to collective bargaining. The changes will not promote more harmonious labour relations, as they are solely for the benefit of unions. The act must always maintain neutrality and should strike a balance.

**Certification process:** The CMA fully supports the principle that if a majority of employees wish to join a union, the union should be certified. However, the democratic principle of majority rule should not be sacrificed in order to make organizing easier. If the government sincerely wanted to ensure that the true wishes of employees are determined and acted upon, a government-supervised secret ballot should have been proposed. The process would allow employees to receive all the information they need to make an educated choice, free from any possibility of intimidation, pressure or coercion.

How can a government argue against the basic underpinning of our democratic system? It is neither logical nor is it equitable to prevent employees from democratically exercising their free choice. The secret ballot vote should be the required means to determine whether the union should be certified.

I must also raise a point which CMA finds particularly untenable: the change with regard to automatic certification. In no situation should a union be certified if there is not adequate membership support. The proposal to remove the requirement of adequate membership support could allow for automatic certification even if a majority of employees oppose the union, where the act has been contravened. This is inequitable and ignores the rights of individual employees. Changes must be made to correct this, especially if no vote is put forward.

**Replacement workers:** The proposal regarding the prohibition of using replacement workers has had the highest public profile, and with justification. To put it succinctly, the rights of individuals and employers have been stripped away to further the interests and unfairly increase the power of trade unions. In its current form, this restriction would seriously damage many employers that need replacement workers to ensure the continued viability of their operation.

Ontario's economy relies heavily on just-in-time suppliers and this law jeopardizes the continued operation of these businesses and other businesses with whom they deal. Furthermore, if a company is prevented from operating, the needs of its customers will be filled by another company. The business would probably be lost for ever, and so too would the jobs.

The committee should not overlook the blatant unfairness of this proposal. Collective bargaining is about negotiating and compromise. If the hands of one party are tied, then you have legislated an unfair advantage in favour of the other party. You have effectively removed the incentive to bargain, which is contrary to the intent and *raison d'être* of the OLRA. Striking workers would still have the right to seek other work during the strike, so why should the employer be starved economically?

#### 1410

The current proposal places far too many restrictions on who an employer can use. At a minimum, an employer must be able to transfer employees in from other locations or facilities. In the true sense, these are not replacement workers, but only temporary transfers that are necessary to ensure the company is able to maintain essential and necessary aspects of the business. Companies must have the flexibility to transfer in other employees if Ontario's economy and the public are not to suffer. This is especially true if the products relate to the provision of food, energy, power etc. The right amendment here will result in strikers' jobs being saved.

The Ministry of Labour has said that changes were made to make this section more palatable to the business community—to wit, the 60% strike vote requirement. However, this is a fallacy, because in most collective bargaining cases the strike vote almost always exceeds 90%. Often the strike vote is taken at the initial stages of the bargaining process. In other words, the 60% requirement is of no effect. It is not a mandate for a strike and, in most cases, it only demonstrates support and thereby enhances the union's bargaining position.

**The first-contract arbitration issue:** The changes that would make first-contract arbitration easier are also contrary to the premise of collective bargaining. Everyone agrees, and I believe the minister has even stated, that the best agreement is one that the parties freely agreed to. Legislation must promote the free collective bargaining of an agreement rather than promoting artificial agreements that are imposed by third parties.

Under the current law there must be an impasse in bargaining before resorting to first-contract arbitration. There is still the recognition that the parties are the ones who can best determine the terms and conditions of employment. Under the proposed new law, first-contract arbitration could be applied for after the parties have been in a strike or lockout position for only 30 days. Again, this is another example of providing an undue advantage to the union; it removes completely the union's incentive to bargain realistically. Arbitrated first contracts will become the norm. We therefore recommend that the principles of collective bargaining be supported and maintained by preventing such easy access to first-contract arbitration. It takes time for a bargaining relationship to mature; it simply cannot be legislated.

**The OLRB's—that is, the arbitrator's—expanded powers:** Increasing the powers of the OLRB and of arbitrators is again contrary to the principles of collective bargaining and positive employee relations. It is axiomatic that the parties involved should be the ones to determine what will

be included in the collective agreement. Under no circumstances should the OLRB have the authority to determine or impose the term or terms of a collective agreement. Furthermore, an arbitrator should apply the terms of a collective agreement. To allow him or her to apply his or her brand of justice and use total discretion would create instability in the collective bargaining relationship.

As Bill 40 would result in more hearings being conducted by the chair or a vice-chair sitting alone, it is essential that appropriate non-partisan, neutral persons be appointed. The perception of their neutrality would also be of prime importance, so it is necessary that a public process be established to identify and determine who should be appointed to these positions.

**Consolidation of bargaining units:** On a related topic, I would like to raise our concern about the consolidation of bargaining units. Under the current law the OLRB determines what constitutes the appropriate bargaining unit by ensuring that there is a requisite community of interest to support a viable bargaining relationship. Once it has done this, it has no authority to consolidate two or more bargaining units at a later date.

Bill 40 would disregard the requirement of appropriateness of the bargaining unit to ensure that unions could easily organize small groups and then later apply for consolidation. The result would be the loss of the essential community-of-interest component in determining what constitutes the appropriate bargaining unit.

It also fails to recognize the rights of individual employees and could lead to difficult, if not impossible, labour relations. The legislation must recognize internal differences companies may have, based on numerous criteria such as geography, profit centres, product lines etc. Allowing for the consolidation of units that do not have the same community of interest will hamper labour relations and impact negatively on production.

**Third-party property:** A final issue relates to the rights of the third-party property owner, someone whose rights are being ignored completely. This is another example where long-protected rights are being sacrificed to promote and increase the rights and advantages of trade unions. This applies in both organizing and picketing and would result in third parties being detrimentally affected because of a labour dispute or campaign in which they neither play a part nor have any involvement. This change will also impact the general public, as it too would be brought into contact with a labour dispute or campaign to which it is not a party.

One cannot help but ask, how could this happen in a jurisdiction that has always been viewed as one that promotes the rights of individuals and supports the equitable treatment of all parties? Changes are necessary if Ontario is to retain its reputation and to ensure that all persons are treated equally, with no super-rights or special preferences being granted.

**Our conclusion:** In our opinion, Bill 40 in its present form will result in much inequity and would cause a dramatic decline in the province's economy. The OLRA should and must ensure that the rights of all are recognized and protected. It should also promote labour relations. It

should not have as its principal purpose to be the guarantor of easy certification and increased bargaining power for trade unions.

If Ontario is to succeed and thrive in the future, there must be workplace harmony, where workers and management work together for the common goal of prosperity. Bill 40 works against this goal and will make labour-management relations even more acrimonious. Ontario cannot operate in an economic vacuum. We must be cognizant of the internal and external pressures we face. Bill 40 should be abandoned, but at a minimum it must be dramatically amended to reflect the issues and concerns I have just discussed.

Given that the government has scheduled five weeks of hearings to discuss and debate this bill, we are confident that the potential for real change exists. If the hearings are proven to be nothing more than a public relations forum to allow parties to state their views, it will create mistrust and demonstrate that the government does not care for the opinions of employees.

Mr Chairman, my colleagues and I would be pleased to answer any questions you may have.

**The Chair:** Thank you. Four minutes per caucus. Mr Offer, please.

**Mr Steven Offer (Mississauga North):** I have just a short question to begin. Thank you for your presentation. I'm looking at page 4 of your presentation, under the certification process, and I note at the very bottom you talk about allowing employees to receive all the information they need in order to make a choice, again, free from coercion and intimidation. As you may guess, we've heard a number of submissions where there have been suggestions that there have been intimidation and coercion in an organizing drive from both sides.

One of the things I would like to hear from you is, would you be opposed to the legislation being changed in so far as there be mandatory notice of an organizing campaign, that notice being delivered to each employee in the workforce, outlining his rights under the Labour Relations Act, in order to ensure that his choice is one which is free from any coercion or intimidation and, as a result, moving this organizing from the shadows into the open?

**Mr Edwards:** Personally, I'd agree with you. I'll refer to my cohort here, Ian, who's our policy adviser.

**Mr Ian Howcroft:** We would support the providing of more information to employees if it would help them to make a decision on something that's going to affect them. We feel the best way to do that would be to have a secret ballot vote, allow the employee to have information from the union that he can get on his own, from the labour relations board and from the employer and then, free from any intimidation by any party, allow him to make a secret ballot decision as to how he is going to be affected.

1420

**Mr Gerry Phillips (Scarborough-Agincourt):** My question really is to help us a little to put a dimension on how serious this situation is. I happen to think that many of the things you talk about in your brief will in fact happen. That's just because I probably talked to a thousand



business people about it, each of whom has indicated his concern. But I think the government members would say: "That's just the business community blowing air again. If anything comes along that they don't particularly like, they say that thousands and thousands of jobs will be lost." Can you be at all helpful to us in terms of quantifying in a more specific way what the outcome of this might be in terms of jobs and investment?

**Mr Paul Nykanen:** If I might respond to that, as you are probably aware, there were a number of independent, third-party surveys that were conducted. One in particular that I would refer to would be a separate Ernst and Young study which was sent out to 300 businesses across Ontario representing a broad spectrum of small and large businesses, as well as geographic considerations. In questioning these people who are actually making the investment decisions, the results came out that there would be an estimated loss of 295,000 jobs and about \$8.8 billion in investments.

It's true that this particular survey made reference to the discussion paper and that there have been minor changes that have been incorporated in the bill itself, but essentially we're dealing with primarily the same principal concerns, and that number, we would expect, would be somewhere in the order of 250,000 to 275,000, at a minimum.

**Mrs Elizabeth Witmer (Waterloo North):** Thank you very much, Mr Edwards, for your presentation. I appreciate the constructive suggestions that you have made and, like you, I believe the government should abandon this bill. But if it is not prepared to do so, I hope that it will very seriously consider the amendments that groups such as yours are bringing forward.

You talked a little bit about the economic decline in the province, and I would certainly agree. The other concern you raised was the rights of the individual employees, and that's an issue I have certainly been concerned about since the outset.

If we take a look at the consolidation of bargaining units on page 9, you indicate in the second paragraph that again, in this particular issue, it fails to recognize the rights of individual employees and could lead to difficult, if not impossible, labour relations because it doesn't recognize the internal differences that companies have. Could you expand on that point, please? How could that happen?

**Mr Howcroft:** If you have a union apply for consolidation of two bargaining units, it's not necessarily going to be that all the employees in those proposed bargaining units or the proposed consolidation agree with that, so their rights are going to be ignored and sacrificed if the union decides it wants to go and have the bargaining units consolidated. There's nothing requiring a union to take into account the wishes of the employees. Again, it's just another example of where the rights of the individual employee are being ignored to further the rights of the trade union movement.

**Mrs Witmer:** The other area is, in your conclusion, you indicate that this is certainly going to make labour-management relations more acrimonious. I'd just like to

hear from you again, what is it within this bill that is going to contribute to that type of situation?

**Mr Nykanen:** One of the areas could be with regard to the expanded powers of the Ontario Labour Relations Board, and if you take the expanded powers, along with the change of the preamble into the purpose clause, this would force the board to make decisions which would facilitate organizing. Also, it would be able to determine and impose the terms of a collective agreement. We feel that collective bargaining is exactly what it means, and that it should be the workplace parties that determine it. So if some external body, a third party if you will, imposes the terms of that, it will lead to acrimonious relationships.

**Mrs Witmer:** The manufacturing sector obviously has unique concerns with this Bill 40. Which provision within this piece of legislation would you say is the most frightening, or which provisions are the most frightening and certainly could have a very serious economic impact on this province?

**Mr Edwards:** In my opinion, personally, I think the preventive point of not being able to operate or to prohibit the employer from operating at all is the most draconian. I don't like much of any of it, but that, to me, would be the worst. So much of the automotive sector, just as an example, is on the just-in-time program and so much of our supplied product is perhaps a commodity in its nature and is not terribly difficult to substitute. The business could easily be lost and, as I said, given to another supplier and possibly never to be returned. That other supplier could easily be a foreign company, especially in the milieu we're in here with the North American free trade agreement.

**Mr Brad Ward (Brantford):** Gentlemen, I'd like to thank you for your fine presentation on behalf of the Canadian Manufacturers' Association. I think there's general consensus, and I'm sure you will agree as well, that the workplace and the workforce have changed dramatically since the mid-1970s, the last time the act was significantly updated. Part of the overall objective of the reason why we are proceeding with Bill 40 in however final form is to reflect that changing workplace and workforce.

When you talk about investment, I have to relate to my own community of Brantford. Over the last little while, since labour reform has been discussed—I think it was more in the news, in the media, in late winter or early spring than it is now; a really heightened discussion back then—we had a number of plants in Brantford. KeepRite—I'm sure you're aware of KeepRite, Inter-City Gas, Canadian-owned—announced the decision to close an American plant and expand production at its local plant in Brantford, anticipating doubling the employment levels over the next few years.

Gates Canada: We had a presentation from the director of Canadian operations. They invested \$4 million into the operations and now it's my understanding that an additional \$8 million is coming in because of the success of that original investment, all done during the labour reforms being discussed.

BASF invested \$6 million, a German company. Local investors purchased an American plant, all this during the

discussion of labour reform. I don't pretend to say that these investments occurred because of labour reform; neither do I say that the plants that did close closed because of labour reform. In fact, they closed because of corporate restructuring or because of the economy and went into receivership.

The question I have, gentlemen, if I have time, is if a plant in your sector has good employee-employer relationships, and generally I think they are favourable, there is cooperation between employees and employers—not, I recognize, during an organizing drive because that means something has broken down in that relationship, but under existing circumstances—what aspects of Bill 40, and I know you alluded, Paul, to the fact that during an organizing drive, you feel Bill 40 would create a little bit of a wedge, but if the relationships are good—

**The Chair:** Mr Ward, you had time but you're quickly using it up.

**Mr Ward:** If the relationships are good, union and non-union, what aspects of Bill 40 are going to change that relationship?

**Mr Nykanen:** I think I might ask a question in response to that. The Ontario Labour Relations Act, as it exists today, seems to be working quite well. It is reasonably fair and balanced. We don't have the same problems as some other provinces have such as, let's say, Quebec, which is used as an example frequently. So if it ain't broke, why fix it? With the examples that Mr Edwards provided earlier, these are all areas that are going to cause concern to those who are going to invest from within and without the province.

I would suggest that even though it's often said that it's perception rather than reality, I would suggest that the perception of what would be the competitive position is certainly affecting those investment decisions today. I would say that there are six or seven key items within the proposed amendments that are particularly difficult to come to grips with.

1430

**The Chair:** Mr Hope, 60 seconds please.

**Mr Randy R. Hope (Chatham-Kent):** Gee, I thought he was going to run it out.

Dealing with replacement workers, you brought up the issue of just-in-time theory. In talking to a number of the small business communities in my area, I don't think they've been really paying a lot of attention to the labour relations reform because—you talked about meeting supplier demand—one of the biggest issues that is facing a lot of the manufacturing sector right now and doing just-in-time is dealing with the banks more so than dealing with the labour relations laws. They've lost more productivity because of traffic tie-ups or by the banks coming in and pulling their notes on them or by equipment breaking down than any replacement worker legislation will ever cause. I'm just wondering why you're paying more attention to legislation of this nature, when collective agreements happen once every three years, instead of dealing with something that is more relevant, like the financial institutions drawing operating costs.

**Mr Edwards:** I think most labour agreements are successful. Most businesses with an organized workforce are not on strike; they're operating successfully. I guess Paul's point is, why introduce legislation that could upset that process by giving the investor, which in many cases is not necessarily a Canadian company, an insecure feeling about investing in Ontario? You're adding a component that could potentially create acrimonious relations. We're not saying that today's relationships are all that bad. So why don't we leave it alone? It's working pretty well.

**Mr Howcroft:** To use your logic, why is the government focusing so much attention and so many resources on this bill if it's not that big a problem?

**The Chair:** No, you don't have time to reply. Canadian Manufacturers' Association, we're grateful to you for coming here this afternoon and performing an important part of this process. Thank you. Take care.

#### UNION OF INJURED WORKERS OF ONTARIO

**The Chair:** The next participant is the Union of Injured Workers of Ontario. Please come forward, have a seat, tell us your name and titles, if any, and proceed with your comments. Go ahead, sir.

**Mr Phil Biggin:** I'm Phil Biggin, and I'm the executive director of the Union of Injured Workers of Ontario. I'm just going to read a brief statement, and then I will make comments and answer questions as appropriate.

The Union of Injured Workers of Ontario is pleased to appear before the members of the standing committee on resources development of the Ontario Legislature to discuss our views on Bill 40, the government's proposed amendments to the Ontario Labour Relations Act. We believe this type of reform is long overdue and anticipate its passage into law.

The Union of Injured Workers represents injured workers and their families from across Metropolitan Toronto, Peel and York regions. We are an affiliate of the Ontario network of injured workers' groups and work closely with other injured worker groups throughout Ontario to protect and defend the interests of injured workers and their families. The UIW has been representing injured workers since 1974. We deal every day with the Workers' Compensation Board, the income security branch of National Health and Welfare, the Ontario Human Rights Commission and social services or welfare.

It has been our experience that workers who are members of unions fare much better than those who are unorganized. With the recent reform of the Workers' Compensation Act in Bill 162 whereby employers with 20 or more employees are obligated to reinstate the injured worker for two years following an injury at work, the right of workers to be members of a union becomes even more important. Every day we see people coming into our office from non-union shops who have been injured on the job, and no reports have been sent to the Workers' Compensation Board. People are put on sickness and accident benefits, and of course you know what happens if you don't have some kind of collective agreement at your workplace and you're on a sickness and accident benefit and then a long-term



disability results: You're not going to have any protection after the sickness and accident benefits expire.

Under Bill 162, as far as injured workers whom the employer has the obligation to re-employ, when these workers go back to the company, essentially, they go back without representation if they're unorganized. It is impossible for me as a representative, or for a representative through the office of the worker adviser or a legal clinic or any other injured workers' group, to go into that factory in most cases. There are some exceptions where we are accepted, but in most cases the worker does not have representation and oftentimes problems develop which lead to a very unfortunate result.

We're convinced that the issue of Bill 40 is clearly an issue of workers' rights. Workers who believe they are treated unfairly by their employer and believe they cannot, as individuals, obtain relief join with other workers to seek representation. This legislation stipulates that it must be a majority of workers who feel they require relief through representation prior to an alteration of the status quo. When a majority of workers feel relief is necessary they must, in a democratic society, be granted the same right as employers to join together in the pursuit of their common interests.

These are challenging times for all of us, and both labour and the employer community must find ways to cooperate and work together. It's unacceptable, considering the global reality, that certain employers continue to operate in ways which clearly discriminate against workers, particularly those who need help most: women, visible minorities and youth. We should look to western Europe for more insight to labour-management cooperation. If we fail in this regard, we'll sell all the citizens of Ontario short.

In conclusion, we support the initiative of the Ontario government to move things forward in the area of labour relations, we endorse the submission of the Ontario Federation of Labour and, finally, we urge the timely passage of this legislation, which we believe will benefit all Ontarians.

I thank the committee for permitting the opportunity to present these views.

**The Chair:** Thank you, sir. Seven minutes per caucus. Ms Witmer.

**Mrs Witmer:** Thank you very much, Mr Biggin, for your presentation. In the second paragraph you indicate, "It has been our experience that workers who are members of a union fare much better than those who are unorganized." Are you saying that in the ideal world, in Ontario, all workers should be unionized?

**Mr Biggin:** If you want my opinion I would say yes, I think I would like to see most of the workforce unionized. Of course, I guess there would be those who would prefer to stay without. But again, I said look at western Europe over the past 50 years, and look at the climate of industrial relations which has been developed there. If we examine what has been done, we will see that it is much more in the interests of the common good—I'm talking not just about workers' rights but employers and small business people

and everybody in the country—if there is labour-management cooperation. I think that can best be effected if the workers are represented by unions of their own choice and, of course, if the employers have their own associations as well.

**Mrs Witmer:** You should come to my riding office. As you know, the biggest load of work any MPP has is workers' comp.

**Mr Biggin:** That's right.

**Mrs Witmer:** I can tell you that many of the cases we're presently involved with involve people who are members of unions, and I don't see them having any better experience than those who are not members of unions.

You talked about Bill 40; however, you have simply said, "Bill 40's great and we support the position of the OFL." You haven't indicated anywhere in here what it is about Bill 40 that you like other than to say it's good. What is there about Bill 40?

I believe that many employers and employees in this province have excellent relationships, both in unionized and non-unionized workplaces. How is Bill 40 specifically—I want specifics—going to improve the workplace environment?

1440

**Mr Biggin:** First of all, workers will have the right to organize a union without harassment. They will have the right to form their own association.

I do want to go back to what you said before, that many of your cases were people who were represented by unions already. That is a problem of workers' compensation; that's not a problem of whether you're a member of a union or not. In fact, if you looked at the statistics and you broke it down, you would see those who are represented, either by their unions or by a representative, are much better dealt with at workers' compensation than those who are not represented.

Going to back to your point about the benefits of unionization—

**Mrs Witmer:** No, the benefits of Bill 40.

**Mr Biggin:** —of Bill 40 in allowing workers to unionize—I think that the right of people to form their own associations and to be represented is a more advanced position than to have people out there working as individuals. When persons are out there as individuals, they're all by themselves. They don't have the opportunities that they have if they have an association which can assist them in fighting whatever problem they encounter.

**Mrs Witmer:** But they already have the right to organize at the present time. How's Bill 40 going to make it different?

**Mr Biggin:** There are many things in terms of organizing that are very difficult. You have to meet certain quotas, you have to do certain things, and in many companies, if you attempt to unionize and that comes to the management's attention, you're fired.

My main purpose in presenting support for Bill 40 is the fact that I believe very strongly—and I think most workers do—that if workers have the right to organize, the

situation in terms of workers' rights and in terms of labour-management cooperation will move more smoothly. It doesn't necessarily mean that there's going to be more labour strife because Bill 40 is passed.

**Mrs Dianne Cunningham (London North):** Thank you, Mr Biggin. I'm going to take advantage of your position and ask you a couple of questions that may help us in our work. But I did want to say that almost unanimously, people who have come with suggestions for improvements to the bill or opposition to the bill have said that this isn't a matter of anybody being against unions or the ability to unionize.

**Mr Biggin:** That's right. I realize that.

**Mrs Cunningham:** I hope you understand that that's the position.

**Mr Biggin:** I know that.

**Mrs Cunningham:** The replacement worker is the one that is of greatest concern, I think, from what we're hearing. I was going to ask you about that, but I'd rather ask you another question with regard to workers' compensation, if you don't mind.

If you had an opportunity to give us three concerns about the operation of the Workers' Compensation Board—because we hear them here—and about appeals, both the board and the appeals, what would you say, in your position, your greatest concerns would be with regard to the injured worker?

**Mr Biggin:** I think our concerns are quite clear. One is that a worker, when injured, has the knowledge and has the opportunities to be covered under the Workers' Compensation Act. In many instances, and more so in unorganized plants than organized plants, the situation is that the management will direct the worker towards other forms of benefit which cut them out of rights that they would have had under the Workers' Compensation Act.

**Mrs Cunningham:** No, I'm asking you about the board itself. All of us, in a non-partisan way, are very concerned about the Workers' Compensation Board operation because of the time it takes. Whether they're unions or not unions, I don't really care. I don't even know half the time when people come into my office; that's not what we're talking about. We're talking about how they can get through the system. As members here, we're all here to listen to you. I'm asking you: What advice can you give us?

**Mr Biggin:** Concerning workers' compensation?

**Mrs Cunningham:** In a word, yes. We wouldn't tell you it was our full-time job, almost, if we weren't concerned about it. We hire sometimes one and two full-time staff on this issue. So tell us what you think should happen. We've got you here; we're going to ask you the question.

**Mr Biggin:** There has been a task force on vocational rehabilitation and service delivery which was tabled recently, and I would like to see the results of that task force seriously considered and the recommendations implemented.

**The Chair:** All of that having been said, we now move to Mr Hope.

**Mrs Cunningham:** Maybe you can answer another question in that regard, because I know my colleagues are interested in it.

**Mr Hope:** It's good to see the Conservative Party now starting to pay attention to workers' compensation.

Now for my question. I'm glad you come from a perspective dealing with workers' compensation as a representative of union and non-unionized workers. Your presentation is very clear to me. We heard a presentation before you came today that said it's an unfair balance, that we're all leaning towards organized labour. I know that in your work you deal with people in social assistance, you deal with people in union and non-union workplaces and you also deal a lot with health and safety, because you try to prevent the accidents from happening in order to make sure people are not on workers' compensation.

Just out of your own experience, dealing with both unionized and non-unionized workplaces—they always think unions are after big bucks—what do you think? Is it not true that most unionized workplaces have a safer environment for working people to try to eliminate workers' compensation? I just ask your views because you see both ends of the perspective.

**Mr Biggin:** It's the same thing. If you're looking at the Occupational Health and Safety Act, for instance, and the health and safety committees within workplaces, it's much easier to form a health and safety committee in a unionized shop than it is in a non-unionized shop. Those committees work very hard to ensure that health and safety are in fact carried out.

My concern is—one of the speakers referred to the fact; I think it was Mrs Witmer—that a lot of their cases, their clients, were members of unions. I think this is very much a question of education. If you have the structures, you have a much easier job educating the membership in terms of knowledge of workers' compensation, health or safety or whatever other factors are involved. That is why I very strongly support the idea of a unionized workforce. I think a unionized workforce is going to lead to more educated, better-educated, more knowledgeable workers, and the result will be a better situation for Ontario as a whole.

If I was an employer, I would rather have an educated, knowledgeable workforce than one which was going to make a lot of mistakes and lead me into very high penalties with workers' compensation or a fine for health and safety. So it's really basic common sense, I would think.

**Mr Hope:** A little bit more than that, I think.

The other area I'd like to talk on is replacement workers. You talk about people on social assistance, and if there are job opportunities available when they're doing their job search, if they don't go to take that replacement worker job, they get cut off social assistance. I'm just wondering about your support of replacement worker legislation. Is it to the perspective that you can stop recurrence of injuries or stop victimizing the victims that are currently being hurt?



**Mr Biggin:** I think that's all part of the package. I'm still just a little bit bewildered—I'm sorry to divert from your point—about the extent of the employer hysteria, for lack of a better word, around Bill 40.

When you see employers in Italy or France or Germany or England who will form councils with their workers, it just doesn't make sense to fight something that seems to be appropriate for its time. As I said, it's overdue. I think we have to move forward and implement this kind of thing. If it's been done in Europe, and there's a certain strain of thinking even in the United States, which has less inclination towards unions than Canadian employers do, then I would think the employers should re-examine their consciences and figure that in fact we're going to have to solve this problem together in the long run, and the sooner we get down and work at it without beating each other to death, the better off we'll be. We all recognize we're in a severe economic crisis, but the only way we're going to get out of it is if we can pull together and work as a team, and I don't see that.

1450

**Mr Pat Hayes (Essex-Kent):** Thank you, Mr Biggin. You certainly bring a different perspective here to these proceedings, especially when you mention the struggles of injured workers with sick and accident benefits along with the compensation. I don't think anybody's going to argue that there aren't problems with compensation. Whether unionized or not, there are still problems there.

But I do believe the unionized workers, for example, do have representatives, benefit representatives and placement representatives, and there is an avenue for the injured workers to go to. Do you find there may be less struggles when they have representatives who are right in the workplace who are unionized than you have with the people you represent who are not unionized, as far as even rehabilitating people, getting people off the injured list or off compensation and back into the workplace? Can you tell us, in your experience, the benefits of being unionized or not being unionized?

**Mr Biggin:** Recognizing today's problems, we know workers' comp is a mess, and we hope soon we'll be able to get some control over this beast. But recognizing that and having said that, I've been told myself by many people at the Workers' Compensation Board, adjudicators, they're much happier to deal with somebody like myself or somebody from the office of the worker adviser or an MPP's office who can act as a facilitator, because what is the problem we face at workers' compensation?

If you want to talk about the problem, it is undereducated, undertrained employees, because of the upheaval that's gone on for the last five or six years. Many times the representative is the one who is providing the key to the answer to the adjudicators or whatever decision-maker we're dealing with, and that's extremely beneficial to the worker.

I can't underline; it's not just a bias, it's a reality. It's a reality you can see day after day. The unorganized worker does not have the benefits. We're not saying, "Bring a union in and we've got heaven, we've got Camelot." What

we're saying is that you stand a better chance to have your rights defended when you're a member of a group than if you're an individual. That's the simple reality of it.

**Mr Dalton McGuinty (Ottawa South):** Thank you, Mr Biggin, for your presentation. I've got to comment at the outset that at one point you mentioned that we all have to get out and pull together and work as a team. My concern is that this very process in fact is acting counter to that goal.

I'll tell you what's happening in British Columbia at this time, and maybe you can tell me whether you think it is a preferable approach. There the NDP Premier Harcourt decided that he was going to amend their labour relations law, and he decided that if there are two objectives in mind, first, to come through with the amendments and, second, to bring about some kind of reconciliation between business and labour, what you should do in terms of a process is get three groups involved in bringing about those amendments. In other words, you're going to try for a consensual approach. So he's got government, business and labour working together to come up with some kind of a draft. Unfortunately, we don't have that kind of a process here.

You made reference to the hysteria of business. I don't agree with the hysteria description, but certainly some of that is due to the fact that they were part of the process culminating in Bill 40. If we had to do it over again, wouldn't you agree that Harcourt's process is better?

**Mr Biggin:** I don't know whether I would make a judgement saying that it was better. It's a different way of approaching it. I've been through a couple of experiences in Ontario, one on the green paper committee, which was an attempt to form consensus, the bipartite committee on regulations for Bill 162. I think it's a healthy approach when in fact the government goes to the public and holds public hearings and then goes back and re-examines the document after public scrutiny. I'm not sure I would say one was preferable to the other. It might be an interesting experiment. But we're here, we're faced with public hearings, and I think we have to deal with what we have here.

**Mr McGuinty:** If one of the objectives here, and we've been told by the government that it is in fact one of those objectives, is to bring about an improvement in relations between business and labour, do you think this is going to accomplish that end?

**Mr Biggin:** I would hope, at the end of the road, that would be the case. There are certain things the employer community and the labour community can certainly agree on and I think how they come to further agreements is a matter of hard work and opening up and trying to understand each other. I don't think this is an attempt of the government to sledgehammer something that favours one group over another. For certain, we're trying to realize adjustments because for many years the pendulum swung in the opposite direction. But if everybody is intent on the goal being to make this province work for all of the citizenry, then I don't think we will end up with both groups on opposite poles. I think there has to be a coming together and a working together.

**Mr Offer:** Thank you for your presentation. On your first page you say you're convinced the issue of Bill 40 is clearly an issue of workers' rights.

**Mr Biggin:** Yes.

**Mr Offer:** I agree with you, except, as we go through these hearings, I think it's clear, certainly to me, that Bill 40 takes away in many ways workers' rights and the freedom to choose. One of the things I am most concerned about is attempting to move these organizing drives we've heard of from out of the shadows and into the open here. One of the ways in which that could be accomplished, as a starter, is if an organizing drive is commenced with a notice to each employee that an organizing drive is being started and these are the rights that you, the men and women in the workplace, have under the Labour Relations Act.

Would you be in favour of that type of notice being mandated in the legislation?

**Mr Biggin:** Would that notice guarantee the workers the right to organize without retribution, without harassment, without the fear of being fired?

**Mr Offer:** The impetus behind that is exactly to stop that.

**Mr Biggin:** If in fact you're talking about a contract being worked out, I'm certain that would be quite an acceptable thing, as long as the workers' rights were enshrined. It's been my experience where workers have tried to organize in an unorganized environment that a lot of blood has been shed; many people have lost their jobs. So I would have to be convinced that there were airtight guarantees that those workers would be protected, whether or not the vote went their way.

**The Chair:** Thank you, Mr Biggin, appearing today on behalf of the Union of Injured Workers of Ontario. Your organization has always been ready to share its views and provide helpful criticism with not only this legislative initiative, but others historically. We are grateful to you for your participation and we appreciate you and your membership for their interest.

**Mr Biggin:** Thank you very much.

**The Chair:** I remind people, of course, that Hansard transcripts of any or all of the submissions are available by writing to the clerk of the resources development committee.

1500

#### CANADIAN COUNCIL OF RETIREES, LOCAL 1

**The Chair:** The next participant is the Canadian Council of Retirees, Local 1. Would those people please come forward, have a seat, tell us their names and titles, if any, and tell us what they will. Go ahead, gentlemen. The clerk is going to distribute your submission. Please try to save the last 15 minutes for questions and exchanges.

**Mr S. William Punnett:** Mr Chairman, I'm Bill Punnett from the seniors, and originally a director of the United Rubber Workers. Murray Cottrell is with the seniors as our secretary and was with the United Steelworkers of America for a great many years, as far back as 1937. Joe

Jordan, who was with the Service Employees International Union, is the assistant secretary of the CCR, and Ernie Arnold is our treasurer.

Thank you for a chance to present our views on the government's proposed amendments to the Ontario Labour Relations Act.

Our council of retirees is composed of retired union members from a wide spectrum of industry and occupations. As retirees, we no longer have anything to personally gain from changes in the act. We do have a lifetime of personal experience with employer-employee relations in Ontario and the Ontario Labour Relations Act.

We have made a point of choosing as our presenters on this occasion retirees who were full-time union officers and representatives in their working lives and who have a great deal of firsthand experience with employee-employer relations and with the Ontario laws affecting such relations.

There are a number of proposed amendments to our labour laws before you which can be better addressed by those now working daily in the industrial relations arena. We want to concentrate on what our experience tells us is the most dangerous flaw in the industrial relations legislation. That flaw is legally permitted strikebreaking.

Our experience with employer-employee relations goes back to the time before certification of unions by law and before collective bargaining became widespread in larger bargaining units. That was the time when we employees had little or no protection under law and the only way we could help each other in the workplace was by risking our jobs, stopping work, going without pay and impeding our employers' ability to make a profit unless and until they were willing to work out reasonable compromises with us.

Those were the days when many members of the business community considered a union to be some sort of unpatriotic, probably communist, cabal, when many politicians were all in favour of calling in more police to make more, not less, confrontation, and when few editors mused maudlinly about the need for greater labour-management cooperation.

Nowadays we gather from political spokespeople from all parties that everyone believes in collective bargaining as the ideal form of employer-employee relations, and no political spokesman would dare say that employers and employees should not bargain in good faith. However, as the current debate in the Ontario Legislature shows all too clearly, when the chips are down, many legislators are still not sure collective bargaining for all is a good idea, and their ideas of bargaining in good faith are still quite fuzzy.

We think that the time has come for some plain talk. Like democracy, collective bargaining has its flaws. Also like democracy, no better system of employer-employee relations has yet evolved. Like all human relations, collective bargaining can be helped by mutual goodwill, but collective bargaining works because both employers and employees know full well that unless they can hammer out mutually acceptable compromises they will both risk a loss of income.

Any time only one side risks loss of income, there is no mutual incentive to work out compromises, and collective bargaining cannot take place. That is why collective



bargaining now operates where employees have skills that are in short supply or where the mix of employees is so complex and so large that it cannot be replaced. That is why, despite all of our labour act procedures and all the speeches about non-confrontation and labour-management cooperation, many employees who need collective bargaining desperately can never enjoy that privilege.

We should remember that many employees in complex, hard-to-replace industrial bargaining units were often able to win voluntary union recognition in the past by taking strike action. In fact, it was because so many Canadian workers had been forced to engage in government-disapproved strikes for union recognition during the Second World War that Ottawa reluctantly adopted the idea of union certification from the US. Ottawa's law, upon which most provincial laws were later based, was a law designed to make striking over union recognition unnecessary, while keeping them illegal for as long as possible.

Our present generation of labour acts still require the government to make sure that employees really mean it when they sign applications to join a union, by comparing names and signatures and by conducting a secret ballot if necessary. After all the tests have been passed, the government still has to assure the employer that a majority of his employees want a union to bargain for them and admonishes both sides to bargain in good faith. However, if the certified employees dare to refuse an inadequate employer offer and use their right to force the employer to risk losing money by stopping work, the law permits the employer to replace all of those expensively certified employees with uncertified strikebreakers who are willing to accept unnegotiated employer terms. Under these circumstances, where is there any incentive for the employer to work out a compromise?

As time has gone on and as collective bargaining has become more acceptable, more realistic procedures for union recruitment, employer counterthrusts and government intervention have evolved and have been written into legislation. But because, up until now, no government has dared to tackle the problem of legal strikebreaking, the labour act still fails to properly protect the majority of the province's employees. The only employees who can take advantage of the rights outlined in the Labour Relations Act are those employees who, because of their skills, are in short demand or because the size and the skill mix where they work is too large or too complicated to permit easy replacement. The rest—and the majority—of Ontario employees, who work in easily replaceable bargaining units, are in practice, as distinct from theory, still denied the benefits of collective bargaining.

#### 1510

The fair solution to this problem is a simple and honest solution. The law must insist that the employment bargaining must be negotiated between the designated employer and the members of the certified bargaining agency, and that no employment deals can be made with outsiders while such negotiations are going on.

Unless and until we tackle this inequity, we will keep on developing a socially explosive two-level structure of

employees in our province. One large group will have won a say in their own economic welfare; the rest will be doomed to accept one-sided decisions.

We can't help but notice that in the debate over the government's proposed anti-strikebreaking law, opposition from employers who are used to bargaining with their employees has been tepid. This is not surprising, since the proposed law will ensure that when determining the cost of employees, employee standards, all employers will, henceforth, have to compete on a level playing field.

Most of the serious opposition to the government's proposed anti-strikebreaking law comes from employer spokespeople with no practical experience in collective bargaining, who seem to believe that employees cannot be trusted with bargaining power, and that any law which prevents employers from replacing employees with strikebreakers will ruin business and scare off potential investors.

This, of course, is the same sort of argument that the same sort of people have used to oppose laws restricting child labour, setting decent minimum wages and industrial safety standards, and establishing unemployment insurance, universal old age pensions, universal medicare, and more recently, pay equity and environmental protection. Anyone who has heard this argument time and time again only assumes that the PR people working for this union-fearing section of the business community have run out of new ideas.

As any study of business growth in Ontario will show, these perpetual prophets of doom have always turned out to be false prophets. There is no proven connection between investment growth and the enactment of pro-employee laws. In fact, instead of discouraging investors, these improvements seem to have provided investors with a growing pool of purchasing power in good times and a steadier pool of purchasing power during slumps.

Let us catch up with Europe's progressive societies, where almost all employees and employers have been practising collective bargaining for some time and where a universal acceptance of employers and employees as equals has resulted in greater social stability and successful economic self-planning.

Here in Canada, anti-strikebreaking laws are already in effect in Quebec. In the US, anti-strikebreaking legislation has passed through the US House of Representatives twice, and should the political balance shift after the next presidential election, anti-strikebreaking will likely become the law in the land below the border.

As veterans of Ontario's organized employees who no longer have any personal stake in the issue, we urge you to support this long-needed essential improvement in our industrial relations laws and make it operative as quickly as possible.

We urge your committee to ignore the doomsters and those who advocate delay as an answer to injustice. We urge you to join with the government in correcting this dangerous flaw in Ontario's employer-employee relations law at long last. Our experience tells us that once the law is passed, you will not repeal it even if you get the chance. Why not bite the bullet and do it now?

**The Chair:** Thank you. Ms Murdock, please. Five minutes per caucus.

**Ms Sharon Murdock (Sudbury):** Thank very much for taking the time to put this together and coming in and speaking to us.

It runs through your entire presentation and it's the whole concept of particularly the right of the worker when on strike. We've had a number of presentations made to us over the past four weeks, where they basically have asked us the question, if you're preventing an employer from operating his business, why should the legislation then allow a worker to go out and get a second job when the strike is on? I would like your views on that, as I'm sure at one time in your life you must have been on a picket line.

**Mr Punnett:** I wish it were only once.

Frankly, the striker has a family to support, rent or a mortgage to pay and car payments to make, so it's pretty tough to expect a union to have sufficient funds to pay him the same as when he's working. Therefore, he is expected to do his share of picketing, and he can go out and get a job if he can get one.

**Mr Murray Cottrill:** I think the question is a little biased. The truth is that when there's a strike, the shareholders may lose money but very seldom the managers. They usually continue to get their paycheque regularly. In fact, a great many of the strikes are caused, frankly, not because of concern for the shareholders but because of the egos of management and its reluctance to share power.

A union can raise a strike fund. If they raise a strike fund, I think a striker who tries to take advantage of the situation and make more money than necessary should probably be hauled up a bit. Now, this is a personal opinion on my part.

On the other hand, if you're really concerned, you could always arrange for them to get unemployment insurance and welfare, two things which you will not grant them now. You make sure they starve while the employer continues to draw his paycheque. So that's why I don't think the question is very valid.

**Ms Murdock:** Okay. There's another point I noted that has also been raised here. You mentioned that there is a secret ballot vote. I think it needs to be stated a few times that there is a secret ballot vote for anything under 55%, at least under the present legislation. Again, what has been suggested by both employers and by the opposition is that in all instances, or after a certain threshold number—in the act right now it's 45% and we're suggesting 40%—there be an immediate secret ballot vote to vote for a strike. Even if you got 55% it wouldn't matter; you'd still have a secret ballot vote. What do you think of that?

**Mr Punnett:** I wonder if that should take place with the doctors and the lawyers when they join their organization, whether they have to vote for that or not. But leaving that aside, you'll notice we said "if," and that was referring to that 40% you're now asking for in the proposed amendments. We think if we get the 50% signed cards, we should get automatic certification. A certification vote, many of you may—

**Ms Murdock:** You mean 50% plus one rather than 55%?

**Mr Punnett:** Yes. But as far as a secret ballot vote is concerned, there is too much pressure from the companies and there are various aspects. There are promises made and it's all done legally, I guess, because we have trouble getting at who starts it. But the companies have stooges who can start these rumours, and if they turn the thing down they'll get increases, and there are other promises made. There are also some threats made that if they get a union, they're going to lose their jobs. This is the kind of stuff that goes on during a secret ballot vote.

So a secret ballot vote is not really as secret and as upright as management would like to have us believe. They've been asking for a secret ballot vote in every case ever since I can remember, on that basis, and we think the whole thing is a farce. I'm glad to see they're going to get rid of the petitions, because since 1951, those have given us a really tough time; they can get petitions through the plants to force us into a secret ballot vote. Do you want to add to that, Murray?

**Mr Cottrill:** Yes. In my experience I've been through a number of major strikes. I know of no big strike in big industry where there hasn't been a secret ballot vote of the employees first. There may be some show-of-hand votes and some spontaneous things in smaller bargaining units, but not in the big ones.

1520

**Ms Murdock:** You're talking strike votes.

**Mr Cottrill:** That's right. Now, are you talking strike votes or certification votes?

**Ms Murdock:** Certification votes.

**Mr Cottrill:** During a period of certification, you are dealing with two groups of amateurs: You are dealing with employers who probably have never dealt with a union, and you're dealing with employees who have never belonged to a union. During that period of time, you've got to be very careful because the employees are easily frightened; it is easy to scare people.

Of course, the question was raised earlier about whether we should notify everybody there's an organizing campaign going on. Any employer who hasn't found that out hasn't been hiring the right detective agency. This is a pious question, frankly. I remember meeting with a committee when we used to say, "I'd like to welcome you all to the meeting: members of the party, members of the Mounties and members of the employer's detective agency," because I knew perfectly well that there would be at least one of every group on the bargaining committee in the early days of a union. Frankly, they could have got all the information they're being charged for by picking up the phone and asking for it, but they liked to go through this thing.

But certainly during the early stage, employees are scared and frightened and rumours take place. When you're talking about secret ballot votes, there's nothing wrong with them in a stable relationship. It's just a signal for a fear campaign when the situation is very new, very



tense and both sides don't know much about what they're doing.

**Mr Phillips:** Thank you very much for the presentation. It was most helpful. To follow up a little on what we've just been talking about, I'd like to get your thoughts on the two issues. One is that you've indicated that the hardnosed employer—if I might put those words into your mouth—already knows that the organizing campaign's going on and has hired detectives and that sort of stuff, and that in most situations involving employer-employee relationships which have been good, there is a secret ballot which takes place on a strike vote.

**Mr Cottrill:** In big units.

**Mr Phillips:** Yes. Would it be helpful in dealing with the fair employer if in every situation there was a notice posted that a campaign to organize was going to take place and, "Here are your rights as individuals," to avoid any pressure and what not, to avoid these hardnosed employers going out and hiring detectives and that sort of stuff? You know, just to get that out of the road.

Secondly, if a vote normally takes place anyway, help me a little bit on why in every certification situation a vote supervised by the Ontario Labour Relations Board wouldn't be the final step in certification to avoid any of this concern in the workplace about intimidation on either side; well supervised, the union fully confident in the supervision of the vote and fully confident that it is a secret ballot. Could you help me on those two?

**Mr Punnett:** First of all, you must be a dreamer, because this just won't happen. Under any circumstances, it won't happen. Why would you have to notify the company that you're going to go in there and organize when it won't even give you the list of employees it's got?

I've gone through some pretty rotten situations during an organization period where we had grants from the government for retraining people and grants for the skilled trades and other grants that are given. They hire in a bunch of people in the meantime so that they'll have a majority against you to win that vote. So there's nothing really fair about a secret ballot vote, as far as I am concerned and from what I've seen since 1937, and that's a good many years to see what's been going on.

**Mr Phillips:** But I don't understand what the problem is on a secret ballot. Could you help me out there?

**Mr Punnett:** It isn't the secret ballot; you can go and mark an X and put it in the box. That isn't the problem. The problem is what goes on between the time that a secret ballot vote is ordered and the time the vote is taken. In that period, as I said before, there are all kinds of rumours that go around, there are promises made and there are people frightened because of this very situation. That's what the problem is with the secret ballot vote. If we can't organize, sign up any more than 40% or 45%, then we'll just have to take a chance on the thing. But if 50% plus one sign the card, then I think those people want the union and therefore should get automatic certification.

**Mr Cottrill:** I don't know whether there are similar rules for shareholders at meetings, but I've always noticed that they're considered to be more trustworthy than em-

ployees anyway, so therefore you have to doublecheck the poor employees. I'd like to point out to you that one of your problems is that you visualize some great big union entering an employer's premises and saying: "Aha, we're going to get this guy. We are about to organize your employees." That's not the way it works. What happens, whether you like it or not, is that the employees are mad at the employer and want to do something about it. They look around for things to do and find out that one of the things other people have done successfully is to join a union—or form a union is really the right word, because they don't join it as much as they form it. They form their own union, which may belong to a larger organization, but it's their union.

During that stage, there's a lot of uncertainty and fear. As I told you before, any employer who hasn't got his stooges out telling him what's going on is not too good. I would assume he doesn't have to be very hardnosed to do that. All he has to be is normal to find out what's going on in his business. So when you talk about the union coming in, the answer is that during that early period no union is going to send out a notice, "We are about to organize your employees." We have to find out whether we believe a majority of the employees honestly want a union. We have to find that out. So what's the point in us telling some employer, "We are about to do something to you"? We've got to find out from that employer's employees what they want.

What will probably happen is that some people will sign a few cards. They may come to the office and say, "Look, I don't think the majority of people here are for this thing." Usually they're giving him advice: "Then don't stick your neck out. Relax." Once she's moving, I don't know of any company that doesn't know there's an organizing campaign on. There are usually union organizing leaflets being put at the front door. In fact, I know some companies that have religiously kept all of them in their archives and we've pulled them out later in negotiations and chuckled about them.

The secret ballot is the same thing. I said this before and I repeat it again: Secret ballots are fine, but I do think that in the first stage, with a small group of employees, half frightened and half mad about what's going on, there's no point insisting on that formality. Surely to goodness if you went to a shareholders' meeting and somebody came in with a majority of signatures of the shareholders, you'd pay some attention to it. Whether you would suddenly take them to court and require them to have a secret ballot, I don't know. But I don't know why it is you look at employees as if they were—sure, some of them are not as erudite as you. Some of them are frightened; some of them are not only frightened, they're scared stiff. Why you don't give these people a little breathing space at the beginning, the first time they're organizing—I don't know why you insist on all this formality. Don't worry: The employers have got most of the eggs in the basket to start with, and any the employees get from them, even through collective bargaining, are usually the small eggs.

1530

**Mrs Witmer:** Thank you very much. I appreciate you people, who are, as you've said, retirees who used to be full-time union officers and representatives, coming forward to share your experience with us. However, I have the impression that what we're looking at in Bill 40 is maybe an economic scenario that is somewhat changed from the scenario in which you were involved.

We've heard that the thrust of this legislation really is to expand unionization into the retail, the financial and the service sectors. If that's the case, we're not dealing just with the large companies; we're now starting to look at the little family-run operation. As you indicated, employees have mortgages and families to feed. Certainly these individuals do too. They operate very close to the bottom line. They have indicated to us, for example, people in the hospitality sector, in the tourism and the retail sectors, that the replacement worker section is going to have grave consequences for their operations. If they are forced to close their operation even for a weekend, it could effectively bankrupt them.

I'd like to ask you, if that's indeed the case, what type of compromise this government can make, because I don't think you can have one section to apply to everybody in the province. I think you have to take into consideration the unique needs of different business operations and different employers in this province. What compromise can this government make?

**Mr Punnett:** I don't think they need to make any compromise. Quite frankly, it would be the employer and the employees who would make the compromise.

I've heard it said too often that "The union is going to put us out of business if they give us this kind of an increase." The workers are interested in the job they are doing. They're interested in the company they're working for. If there's cooperation there, then that's what happens: they get good cooperation.

As far as putting them out of business because of higher wages or benefits is concerned, if you look at all the agreements, you'll find that not all the people are paid, in the industrial end of it, on the same basis. Just because you're a sweeper, you don't get the same wages sweeping in a store as you would get in one of the large plants. Therefore, this is all taken into consideration.

They're not there to put the employer out of business, because the minute they do that, they have no job themselves. So it's all done on that basis. If the employer can pay it, then he should give them a decent wage on which to live. That's about the way it has operated in the past and will continue to operate just because more people have a chance to organize.

I've had many small plants and small groups—you go and get certified and then you've got a first agreement. Before I retired it was just coming into effect. Now they have a first agreement, but they'll kill you on a second agreement when it comes to bringing in strikebreakers to stop an operation. All I can see happening out of this strikebreaking that is now permitted is just a bunch of ill feeling that has crept up between the employer and the

employees because of bringing in a third party who is making a damn good salary out of this.

If you look at some of these consultants who are heading up these strikebreaking things, you'll see what kind of moneys they've been making. They don't give a damn what they do, because all they're going to do is collect the money. The employer loses and the employee loses out of that deal.

The other thing that happens, and this is the biggest heartbreak I had in being a union representative, is seeing people lose their jobs either in organizing or at strike time. We've got places in Toronto here—I had a crown attorney tell me in one place, "Bill, if I had known that this management was like this, I wouldn't have been so rough on you during the strike." In that case, we had the chief of police call his constables in and tell them: "Look, we want you to go out on that picket line and create problems and arrest the two representatives and anybody else that you can get on that picket line. But start the problems." This is from the police force.

In other cases where they have these consultants come in, they hire their strikebreakers, bring them in in vans, get the police to let them in, and then they try to start some riots so they can get an injunction against you and try to break your strike on that basis.

In the end a lot of people just lost their jobs. They just won't take them back. This is the problem. You won't get any cooperation this way, if this is what's going on, because everybody's afraid and they're just going to look after themselves on this basis.

We're talking now about this free trade deal—

**Mrs Witmer:** Mr Punnett, I'd like to ask you a question about the replacement worker section.

**The Chair:** I've got to tell you that we're well into the time period for the All Business Coalition, who might not be too pleased about having their time taken away.

I want to say to you gentlemen, thank you for appearing here this afternoon. You bring with you a wealth of expertise and experience, and the response of the committee members demonstrates the interest they have in your comments today. Murray Cottrill, Joe Jordan, Ernie Arnold and William Punnett, this committee says thank you. We're grateful to you and we appreciate your taking the time to be with us this afternoon.

**Mr Punnett:** Thank you.

#### ALL BUSINESS COALITION

**The Chair:** The next participant is the All Business Coalition. Mr Nykanen, I'm glad the clerk was able to schedule both your appearances for the same day.

**Mr Nykanen:** Mr Chairman and members of the standing committee, we're pleased to have the opportunity to present our views on the proposed changes to the Labour Relations Act. My name is Paul Nykanen and I am vice-president of the Ontario division for the Canadian Manufacturers' Association and Chair of the All Business Coalition. With me is Peter Simpson, executive vice-president of the Greater Toronto Home Builders' Association, and Larry Dworkin of the Packaging Association of Canada.



The All Business Coalition was formed in the spring of 1991 by a group of business associations that shared common concerns over the economic impact of the proposed changes to the Labour Relations Act. Over the past year, ABC has grown to 66 associations whose members represent over 75% of the private sector jobs in Ontario. ABC maintains close linkages with other coalitions, such as Project Economic Growth and the More Jobs Coalition, which share similar concerns about the impact on investment and jobs should the bill proceed as proposed.

ABC has participated throughout the established process following the release of the Burkett report, the policy analysis and cabinet submission, the discussion paper and the tabling of Bill 40. We have met with government officials at all levels, made presentations at the regional hearings and presented written submissions on the concerns of the business community as a whole.

The general concerns of ABC centre around two points.

First, there is ample evidence these changes will discourage investment and lead to huge job losses. For example, an independent third-party survey on the economic impacts of the proposed changes has been totally disregarded, even though the results indicate Ontario could lose over \$8 billion in investment and cause a further loss of almost 300,000 jobs.

It is business that creates jobs when there is a potential return on investment and this will only happen when businesses can compete on a level playing field. The OLRA changes will place a package of constraints on business that are unprecedented anywhere and would force Ontario businesses to consider alternatives such as closing, downsizing or relocating.

These comments are not simply rhetoric or idle threats; they are based on the judgement of those who must make investment decisions. How can such an important consideration on the future of this province be totally disregarded, especially at a time when the economy is so fragile and joblessness is so high?

ABC has repeatedly called upon the minister to conduct a government-sponsored economic impact study to verify or disprove the survey results. No survey has been commissioned.

Second, the proposed amendments will bring about negative management-labour relations in Ontario. The citizens know this, yet the government has refused to seriously consider other views. There have been numerous other surveys and public opinion polls on random selections of Ontario citizens which have indicated that jobs are the number one worry of the people of this province. They have also indicated that Ontario citizens believe the proposed changes will have a negative effect on employment and will harm labour-management relations.

1540

There has been no acknowledgement that there could be a direct relationship between jobs, investment and the public policy environment. Why is the subject avoided? Why has the government refused to pay attention to these valid, widespread concerns?

Although there have been numerous statements on the extent of the consultation process, there is no evidence that

the principal concerns of the business community have been seriously considered. The process that we have been involved in has been mainly cosmetic and ineffective in addressing the issues. Minor changes from the discussion paper have been incorporated, but the major issues remain.

ABC has repeatedly called on the government to bring the workplace parties together to work through the issues in a spirit of cooperation and to develop policy options acceptable to all parties. No such opportunity has been allowed, and the result is a bill that favours one of the partners at the expense of the other.

We have reached an important stage in the process, and there is still an opportunity to effectively consider the alternatives and to do what is best for Ontario. I would like to highlight some of the principal concerns that we have identified.

The purpose clause: The preamble in the existing act acts as a guide to encourage harmonious employer-employee relations. The proposed purpose clause goes far beyond the existing preamble, can be expected to unfairly influence the board's decisions and would act as a mandate to direct the board to take positions which could make it extremely difficult to permit employers an equal opportunity on bargaining positions. It could also influence the board to rule in favour of unions in organizing and unfair labour practice complaints. Fairness and balance are clearly lacking in the purpose clause.

Expanded powers of the labour relations board: Throughout Bill 40, the proposed changes to the act enhance the powers of the board to play a more active role in future labour relations, leaving less to be determined by the workplace parties in the process. In addition to the basic theme contained in the bill, an example of added powers includes authority to grant automatic certification where the act has been contravened during an organizing campaign without any evidence of trade union support. Such powers allow certification of the union even if the majority of employees are not in favour.

Board members, including the powerful positions of chair and vice-chair, are currently appointed by the Minister of Labour. The bill should include a public process for board appointments, which would ensure that a balance is struck to take into account union and employer perspectives in both unionized and non-unionized workplaces.

Easier organization and certification: The overall effect of the proposed amendments is to facilitate union certification at the expense of the true wishes and the rights of the employee.

For example, the bill prohibits petitions after the union has filed for certification. This amendment removes the right of the employee to change his mind about support for a union even though he or she may have decided otherwise. Respect for a person to change one's mind exists with the cooling-off period in normal door-to-door sales, yet would not be allowed by law in the certification process defined by Bill 40.

To ensure that the will of the majority is assured without any external pressures, the only democratic decision-making procedure is to conduct a supervised secret ballot vote after ensuring that the workplace has all

the relevant information from both employers and unions in order to make an informed decision.

Restrictions on the use of replacement workers: Bill 40 places severe restrictions on the ability of a company to operate during a strike. New hires, employees from other company locations and contractors are prohibited from performing struck work. Industrial businesses today must provide uninterrupted services or deliveries in a highly competitive marketplace which demands reliability of supply in order to retain contracts.

For example, if a parts supplier fails to deliver goods on a just-in-time contract, the customer will be forced to source elsewhere, and the struck facility will likely lose the business permanently. Similarly, many small businesses are dependent on a limited number of core customers, and an unreliable source of supply or service quickly leads to a permanent loss of customers and cancellations of orders. The end result in these cases is a significant downsizing or a permanent shutdown. In either case, there is a loss of jobs, and the workers suffer along with the businesses. Nobody wins in these circumstances. The bill should provide for recognition of the right of the employer to maintain operations and to protect the economic viability of the business.

The bill legislates a serious intrusion into employee freedoms, in that it would be an offence for an employer to use the services of a striking employee even if the employee wishes to cross the picket line in order to provide for personal financial needs.

There is concrete evidence that similar legislation in Quebec has resulted in longer strikes and forced Quebec businesses to find alternative sources of supply without any contribution to economic progress or stability within the industry.

It has been stated that picket line violence would be prevented if it were an offence to use replacement workers to keep a company financially secure. Laws currently exist which make violent acts on the picket lines or anywhere else an offence. The solution is to strengthen the enforcement of current laws to protect the safety of our citizens. Surely we are capable of adequate law enforcement in areas where potential problems exist. The solutions suggested by Bill 40 would be similar to legislating the closure of banks because we're incapable of preventing bank robberies.

Consolidation of bargaining units: The act, as it currently exists, empowers the board to determine the unit that is appropriate for collective bargaining but cannot later change the description of the bargaining unit in order to consolidate two or more bargaining units. Bill 40 would allow the board consolidation power of two or more units during certification or during the life of the existing agreement. This would allow unions the dual advantage of organizing on a smaller basis, a single store or a single branch operation, and later increasing the bargaining power by combining a group of stores or branches.

In addition, the board would be empowered to combine both part-time and full-time units, which frequently have different interests, and consequently employees would end up in a unit to which they do not want to belong, as it

would not necessarily be in their best interests. The legitimate interests of employers relating to the efficient operation of their businesses is also disregarded. Both employees' and employers' rights are compromised purely in the interest of strengthening the union powers.

First-contract arbitration: Arbitration, by definition, is intended to settle differences between two parties after it has been determined that the parties are unable to resolve their differences. The current act provides for first-contract arbitration when bargaining fails due to lack of effort, refusal to compromise or to abandon an extreme position or if an employer refuses to recognize the bargaining authority of the union.

Bill 40 provides for first-contract arbitration based solely on application 30 days after the parties are in a legal strike or lockout position, without any further requirements such as unreasonable conduct. Such a provision removes any incentive for the union to bargain seriously, and indeed would even allow a weak union to bypass the collective bargaining process automatically.

#### 1550

If the law is intended to encourage collective bargaining in a fair and balanced way, then this provision clearly contravenes the intent. The one-sided shift of power to unions not only destroys serious bargaining for the first agreement, but will likely result in long-term adversarial bargaining relationships.

Access to third-party property: Bill 40 permits access to premises which the public normally has access to for the purposes of both organizing and picketing. The amendment overrides the Trespass to Property Act and has the potential to cause irreparable harm to unrelated third parties whose businesses in these surrounding areas could suffer from disrupting public or commercial access in industrial or commercial properties or in shopping centres. With the economy in such desperate shape, neither employers nor employees can afford such disruptions.

The allotted time does not allow for anything more than a general overview of some of the principal concerns of business. However, member associations of the ABC, other reputable business coalitions and numerous individual companies have provided extensive evidence as to how the proposed amendments will impact on a broad range of business sectors. We'll comment on these a little later. The common concern is the economic viability of businesses in Ontario after the passage of Bill 40. The price to be paid by Ontario is a loss of investment and a loss of jobs.

As mentioned earlier, there is still an opportunity to objectively consider alternatives which would be best for Ontario and acceptable to all parties. There is no need to gamble with our future prosperity. We admit that the business community is worried about the consequences of being legislated into a position which would make it difficult to survive in a fiercely competitive market. The economy is already suffering from unacceptable joblessness, rising welfare rolls, declining profits for many companies and huge losses for numerous others. Reduced government revenues threaten our social programs and standard of living.

We respectfully submit to the committee that the only solution is to get the economy moving by restoring the



confidence of investors within Ontario and out of the province. Ontario is a good place to live and work, and has the continuing capability of returning to prosperity. We need a level playing field which includes laws that are fair to all parties and balanced so as to achieve harmonious workplace relationships. To date, we have been unable to achieve that balance in Bill 40 because our concerns have not been seriously considered.

We hope that the members of this committee will have the courage, the strength and good judgement and the political will to ensure that Bill 40 will not result in irreparable harm to Ontario, and that your final report will incorporate the major concerns we have presented.

I would now like to turn this over to Larry Dworkin, who has some examples of what I am speaking of.

**Mr Larry Dworkin:** Thanks very much, Paul. As Paul mentioned, I am with the Packaging Association of Canada. If you don't know, we represent everybody from suppliers of raw materials, such as glass and plastics, wood products and paper products, to printers, converters and end users of packaging. We sell about \$10 billion a year and employ about 60,000 people, the majority of whom are here in Ontario.

On February 5, we made a presentation to the minister. He has a copy of that so I don't want to go back and say all the things that happened before, but it is available through his department.

However, at that time we noted that a number of our companies had left Canada. They were firms like Bic Canada, Newell Industries or BASF, which had either left or relocated part or all of their manufacturing operations. They did it because they found themselves less competitive in Ontario. It was for a wide variety of reasons; it wasn't just the Ontario Labour Relations Act that we are studying here today. It was in fact a cumulation of all of these things of which the act was considered as part and parcel of the final decision-making process.

Of concern to us today, as this rolls down the road—and if you go to the Buffalo Chamber of Commerce, you will find that more than 800 companies from southern Ontario currently have inquiries with it. That's up almost double over the past year and a half. There's got to be a reason for it, and part of it has to come back to what we are talking about here today. It's a major concern.

Some of those people are members of our packaging industry. We don't want to lose them. We're not in the business of, is this right or is this wrong? We're in the business of economics: "Can I compete with the United States"—or what have you—"or do I have to move my plant?"

Along that line, I think you may have heard from Dare Foods, for example. It is a fairly major member of our association. As you know, they employ about 700 people here in Ontario. They have one plant in Kitchener and they recently opened a new one in Milton. That plant in Milton was to be expanded, but because of this particular act, and for their own reasons, because of the economics they saw, Dare Foods said: "No, we're not going to expand our plant. Rather, we're going to open one up in South Carolina."

As we sit here today, we have lost. Dare Foods has lost. But for the packaging industry, it's more than just Dare Foods. We have lost the suppliers to that particular company. The people who supply the plastics packaging, the paper packaging, all of us have lost—the converters, the printers and so on down the line.

As Graham Dare, who is with the company, said, one of the problems he had was that he found out when he talked to the government that it's as though we've isolated this particular bill from all the other economic factors in the province. I find that quite true. In fact, on a number of occasions—and this is not the first time I've been before a committee of this nature; Bill 143 is another example where I've been involved before—there seems to be an isolation between what one government department is doing and another one, and nobody is measuring the economic consequences of those moves. In that case, I have to concur with the findings of the Dare people, that they have not found the climate to be as economically attractive as they wanted.

But Dare isn't the only company. R.W. Packaging was based in Manitoba, but expanded to Ontario with the premise and hope that they could use Ontario as a major base to reach the US marketplace. Their president, Dave Baldner, recently wrote to the Premier stating that the company could not maintain its business in Ontario with legislation which would prevent it from providing maintenance service to its customers during a strike. That's a very important thing because R.W. Packaging, like a lot of companies in the Canadian packaging industry, is either a small or medium-sized company; in other words, under 300 or 400 employees. To them, they cannot withstand the costs of a strike.

There are a number of other examples. What I want to say is that we cannot isolate this piece of legislation; it has to be looked at in the entire context.

I would like to reiterate support for something Paul has already mentioned, and that is the notion of an all-stakeholder group to be formed to consider the bill, much in the same manner as the drafting of the environmental bill of rights. If you remember, with that it was industry, it was the environmental groups, it was government all together at the table, and we came up with what we thought was a reasonable solution. It is our opinion that the same kind of solution can be brought together with this. Only then will a more comprehensive and, I believe, well-thought-out initiative ensure our future here in Ontario. Thank you.

**The Chair:** Thank you. We have 60 seconds per caucus.

**Mr Phillips:** We very much appreciate the last comment, the recommendation. We've tried, both ourselves and the Conservative Party, to make that one fly, and it just won't. This government won't do it.

My question to you is that some of the members of your business coalition are, I think, the vehicle manufacturers. What we get thrown back at us is the point I made earlier to you, Paul, that the government members think the business community is just exaggerating the problems. They say: "Ford just put a billion dollars into Canada."

Chrysler's just got its new line working in Bramalea. There are examples of industries that are investing here, and that puts the lie to the fears of the business community that we'll see a large job loss here in the province." How do you answer that?

**Mr Nykanen:** First of all, any decisions for major projects such as you are describing are made years in advance. In other words, the commitment has to have been made from an engineering standpoint, a procurement standpoint, two, three or four years ago, perhaps. It's equivalent to taking off in an airplane: Once you get started and you get past the point of no return, you must continue on. I would suggest that under no circumstances should there be any credit taken that this Labour Relations Act has encouraged that; on the contrary. This was well under way, and it is proceeding because it's uneconomical, it's impossible, to turn back.

I would suggest that there would be perhaps some other questions that would be asked if that same decision were to be approached now for a project three or four years down the road.

1600

**Mr Dworkin:** I wonder if I could add that the other part of the equation is that the economics for, say, the packaging industry or the hardware-housewares manufacturing industry is a lot different from that of the automotive industry, and I think you have to look at the size of the players involved. In those industries, the last two, hardware-housewares and packaging, you have a lot of small, family-sized companies of under 100 employees. They're very important employers, but they're small in comparison to the automotive industry.

**Mrs Cunningham:** I just wanted to relay something that happened in London last week. The Ministry of Industry, Trade and Technology, the ministry personnel in every community, is visiting the different members of this Legislative Assembly. I was very dismayed to learn that in London there is very little new investment or expansion planned, and you caught me by surprise today when you yourself said we should be looking to the future. The dates were 1994-95, 1995-96, because the projections of the industry in that community and surrounding London are for that time frame.

I wonder if you have any specific information, because I know the ministry office does. It's not something they're publicizing, of course, because it isn't what they want to hear, but when I asked the ministry representative if in fact the minister knew, he said yes.

**Mr Nykanen:** I'm not aware specifically of precise data such as you're talking about, but I do, over the course of business, hear a lot about these decisions and so on.

I would say that type of information generally is relatively hard to come by because, first of all, these are strategic decisions and for competitive reasons a company isn't going to announce necessarily that five years from now, "I'm going to put in a facility." A lot of that work goes on in the overall analysis and that decision is made based on: Is there going to be a return on investment in that location?

I think it is significant that with the economy the way it is, and certainly there are other reasons why companies are not expanding, really everything has been put on hold for quite some period of time. But I think even more significant, and perhaps tying in with what you were saying, is the fact that companies, when they were asked, and they didn't have to identify themselves, actually came out and offered—those people who were making those investment decisions said that they would not invest in the province. I think the \$8 billion plus, or whether that be \$7 billion or whatever, is indicative of what the future plans are if the act goes forward as proposed.

**Mr Bob Huget (Sarnia):** Thank you for your presentation. I would like to speak just briefly on the points of the survey of your members, I believe in February 1991, that you mentioned. Was that correct?

**Mr Nykanen:** Yes.

**Mr Huget:** I guess some positions were taken by your members then in terms of responding to a survey in February 1991. In February 1991 we would have been referring to the Burkett report and not the draft legislation, and I think it's unfortunate that perhaps that process unfolded.

I noticed that in several locations during the presentations we've had over the past few weeks there has been much erroneous information in terms of what's in the bill and in some groups' positions that they've taken, based on what is information in error. Indeed I would suspect that some of the surveys may have in them some error in terms of opinion of what's in the bill and what's not.

I guess what I'd like from you is, do you think that some of these opinion surveys and some of these research-type questionnaires and guesstimates based on information that is not factual about the bill would have had any impact on people's decision-making processes?

**Mr Nykanen:** The surveys that were conducted, it's correct they were not specifically on Bill 40. I would say the number of changes from Bill 40 compared to the discussion paper are relatively insignificant. The major concerns are still there, so that whether the number is 295,000 or 250,000, I really do believe it's immaterial.

The other thing is that we have conducted these because we felt it was a responsibility of the business community to get some independent study to show what would happen in the event of these laws going through, and we have continuously called on the government to have its own government-sponsored study. No such study has been forthcoming.

I understand there have been some studies made and I would like to know why those studies are not being made public. They would either prove or disprove the results, and I would suspect that no matter what that study is, if it is taken today or whether it was last February, the results would be in the same order of magnitude.

**The Chair:** I want to say thank you to the All Business Coalition for its interest in this matter and for its participation in this process. Take care, people.



LABOUR COUNCIL OF METROPOLITAN  
TORONTO AND YORK REGION

**The Chair:** The next participant is the Labour Council of Metropolitan Toronto and York Region. Please have a seat, tell us your name and your title. Try to save the last half of the half-hour for exchanges and questions. Go ahead.

**Ms Linda Torney:** My name is Linda Torney. I'm here representing the Labour Council of Metropolitan Toronto and York Region and I'm pleased to present our views to this committee on the government's proposed amendments to the Ontario Labour Relations Act.

The labour council represents approximately 180,000 trade unionists in this region. They are members of more than 400 different local unions, working in every industry and every sector of our economy. This labour council has been in existence since 1871 and was formed when Toronto unions came together to support the typographical union's fight for such basic rights as a nine-hour day and an end to child labour.

We are fighting for the same basic principles today—for justice and equality in the workplace and in society. Labour law reform is about basic rights of workers but particularly for the most exploited groups of workers—immigrant workers, women and workers of colour, those in the service sector and those who now work in the home.

The business community has been whipping up hysteria around Bill 40 and ranting about the dangers of "tipping the delicate balance in favour of workers." Let us be clear that there is no delicate balance. When workers have no union, bosses have all the power. Even when workers are unionized, they are treated as mere units of labour by employers. As one business representative was quoted in the Toronto Sun as saying in June of this year, "Labour is a commodity, like a can of beer, an automobile or a refrigerator."

We have been disgusted at the campaign to discourage foreign investment in Ontario and the threats of a capital strike if the legislation goes through. It is amazing when one realizes that all of the pieces of this legislation already exist elsewhere in North America and many other productive economies throughout the world. Identical labour reforms have not led to any mass exodus of business from the provinces or states in which they are enacted.

What is foremost in our minds are the working conditions and wellbeing of all working people in this province. In Metropolitan Toronto we are often the first point of contact for workers who are suffering abuse from their employees. The calls to our office and to places like the Workers' Information and Action Centre of Toronto have been on the increase since the onslaught of the recession. But these are workers who, for the most part, know where to access information and call for assistance. Thousands more suffer in silence and in fear. The abuse has been documented at the Ontario Labour Relations Board, Workers' Compensation Board and the Ontario Human Rights Commission. Workers are forced to work without statutory compensation, disciplined and fired for no just cause, suffer sexual harassment, assault, injury and death at the hands of their employers, and these must be stopped.

Our labour council has a proud history of working on behalf of immigrant workers, women and workers of colour in this region. Even when workers in these groups are unionized, we have to constantly fight and struggle for equal treatment. Immigrant women forced to do the boss's personal laundry, women suffering sexual assault and threatened with losing their job, racism and discrimination as normal operating procedures—these are the conditions we are fighting every day. How much worse it is in non-unionized workplaces, we can only imagine.

What we do know is that the relatively few women who are unionized, about one fifth, earn 26% more than unorganized women. We also know that part-time work is one of the reasons women are poor, and part-time workers rarely get benefits. Women account for two thirds of all those forced to work part-time because they cannot find full-time jobs.

We could go on about the injustices suffered, but what we are interested in doing is beginning to correct this imbalance. By supporting these amendments, as well as pay equity and employment equity initiatives, we will be assisting in the struggle for justice and equity for all workers. Broader-based bargaining is essential to assist the most vulnerable groups in this province.

1610

We're not going to go into details on all of the proposed amendments. I want to go on record as saying we have read and support the brief prepared by the Ontario Federation of Labour, but we have selected some areas that particularly impact in Metro Toronto, with its large proponent of workers of colour and immigrant workers.

We want to first state that we concur with the Ontario Federation of Labour on the purpose clause. We think there should be a purpose there. However, we believe it could be stronger and we think the words "to recognize that effective trade union representation is necessary to advance equality between employees and employers" should in fact be part of that purpose.

We wholeheartedly support the extension of the right to organize to a number of groups currently excluded. We have worked very closely with Intercede, and I want to focus our remarks on the domestic workers in particular. We know well the exploitative conditions of work suffered by these workers. Most workers are isolated in separate workplaces, work for separate employers and their job security is very tenuous. We believe that mechanisms must be put into place so that they can engage in collective bargaining. At present there are none, and therefore the amendments will be meaningless.

Subsection 6(1) of the act, which requires that there be more than one employee in the workplace before workers can organize, must be amended. As well, some kinds of organizational structures need to be devised so that domestic workers can be represented and can negotiate for their particular interests and concerns. In general, we need provisions for broad-based and sectoral bargaining if women workers in one-person, two-person and other small workplaces are actually going to be able to exercise their right to unionize and have any power in collective bargaining.

We support the extension of the right to organize to the other groups listed. We would still support the right of supervisory employees to organize if they choose to do so, although we recognize they are excluded currently.

A major barrier to successful organizing drives is the routine practice on the part of employers to act on the advice of management lawyers and to knowingly violate the act by committing unfair labour practices. The objective is to intimidate workers and prevent them from exercising their rights under the act by disciplining, usually without cause, workers who actively and openly participate in an organizing campaign.

This practice is well known to any labour relations practitioner in the province, and we support measures to stop this flouting of the law by employers. The amendment is a step forward, but it differs significantly from what the trade union movement recommended. We are, quite frankly, not confident that it will be strong enough to deter anti-union employers from committing unfair labour practices.

Denial of access to third-party property has in the past led to the frustration of organizing drives and the prolongation of strikes. We support the new amendment which extends the right of access for purposes of organizing on the premises to which the public normally has access and from which a person occupying the premises would have a right to remove individuals. However, union organizers cannot go on to the employees' workplaces, and the board can limit the right of access further as it considers appropriate.

With this limitation, we are not sure whether union organizers will have greater access to private property to which the public has regular access. We still believe firmly that the union representatives should have access to specific parts of the employer's actual premises where no production is taking place, such as parking lots and cafeterias.

There is no amendment in the area of lists of employees for organizing and we feel this is a serious omission. The recommendation from the labour representatives at the labour law reform committee is, we believe, reasonable and also consistent with the right of freedom of association under the charter. They recommended that "an obligation be inserted in the act requiring an employer, upon an application for certification, to immediately forward to the trade union a copy of the list which must be provided to the board."

These are some of the issues of greatest concern to the labour council. We are also supporting the restrictions on the role of post-application anti-union petitions in certification applications and would like the government to go further and eliminate pre-application revocation petitions as well.

Regarding the structure of bargaining units, amendments which make it easier for part-time workers to organize are in our view a very positive step towards labour relations in Ontario.

We are very pleased with the suggested amendments to section 6 of the act, which directs the board to find a single union of full-time and part-time employees "shall be

deemed by the board to be a unit of employees appropriate for collective bargaining." Part-time employees can help strengthen a single bargaining unit, and the combining of bargaining units can facilitate better benefit and compensation levels and better job security for this increasingly large group of workers.

As for the consolidation of bargaining units, we do not see any justification for a legislative measure which permits an employer to apply for consolidation of bargaining units. The choice as to whether or not to consolidate two or more bargaining units is a choice to be made by workers alone.

We also challenge the language in subsection 7(4) which speaks to the consolidation of units at different locations. The board is directed not to combine units of two or more geographic locations where it will "interfere unduly with the employer's ability to continue significantly different methods of operation or production at each of the places."

Most new applications for consolidation of bargaining will involve geographically separate places of operation. One would hope that the process of collective bargaining is flexible enough to accommodate within one collective agreement different methods of production and operation. It will be women and workers of colour employed in the retail and service sectors who will benefit most from consolidation of bargaining units, so it is crucial that the language be strengthened in this section.

Regarding the use of scabs, this reform is really a second pillar of Bill 40 and we support a strong anti-scab reform for Ontario. We also maintain that anti-scab rules ensure that the parties focus their attention on real bargaining issues that divide them during a labour dispute.

Using scab workers only creates new obstacles to reaching an agreement. Picket lines become emotionally charged and hostile confrontations take place. We would also point out that many recent labour disputes have been brought about by concession bargaining being forced on workers, while at the same time scabs are being brought in at often much higher rates of pay.

The provisions in section 32 of Bill 40 are, in our view, not strong enough. First, the provisions allow for workers of the same employer at the same workplace who fall outside the specific striking or locked-out bargaining unit in question to perform struck work. The pressure applied to non-bargaining-unit workers to choose to do struck work will obviously lead to a very tense and divided workplace.

Second, the anti-scab rules are only applicable to the workplace where a strike is occurring. An employer is, therefore, free to shift bargaining unit work to another geographic location or to another contractor who, in turn, will hire scabs to perform struck work in another location, and this must be corrected.

Section 32 of the bill does not establish an effective, expeditious and workable enforcement mechanism. Procedures offered in the current OLRA are too slow and ill equipped to deal with a complaint that struck work is being performed illegally. We must be assured of a speedy enforcement procedure with respect to these amendments in section 32 of Bill 40.



**Successor rights:** Under this amendment, a successor employer will now be obliged to take the place of a former employer in relation to the trade union in an expanded number of situations. This represents a step forward for workers in this province and especially the most vulnerable group of workers, again women, immigrant workers and workers of colour.

With these amendments, the successor employer will adhere to statutory obligations and the grievance provisions of the pre-existing collective agreement and any terms of settlement already negotiated.

There is still a concern around sale of assets, however. The definition of "sale" in the act may not extend to circumstances where there has only been a sale of assets. This would appear to occur even when the purchaser proceeds to engage in similar business activities on the same premises. An extension of the existing provisions could include a significant sale of assets to an employer where employees are engaged in similar work at the same premises as the vendor of assets conducted its business. I would just point out that we have in fact seen that happen in Toronto, particularly in the garment industry.

The amendments also fail to provide adequate protection to employees in circumstances of plant relocation. An amendment is required to ensure that employees' collective bargaining rights are maintained, including their wage levels, benefits and job security, when an employer relocates the business.

**Contracting in and contract tendering:** Section 64.2 of the act further extends successor rights to situations of contracting in in the contract service sector. The provisions apply to services that are provided by a building owner or manager, such as building cleaning services, food services or security services, but not construction maintenance or production.

Under the proposed legislation, if a successor employer provides essentially the same services as the previous employer, the bargaining rights and collective agreements held with the first employer will apply to the successor employer.

This is a major breakthrough for building cleaners and cafeteria workers who have in the past been stripped of their rights every time there has been a change of ownership. Once again, it will provide for better job security, wages and benefits for some of the most exploited workers in this region.

The amendments fall short, however, because they fail to apply to the contracting in of general maintenance and construction and to the contracting out of work.

1620

**Duty to bargain an adjustment plan:** I would say that this is an area in which we have had a great deal of experience since we run major labour adjustment programs in our area. The free trade agreement and the current economic recession have dealt a tremendous blow to workers and their families in Ontario, in particular in this region.

Over 317,000 full-time jobs were lost in Ontario between March 1989 and March 1992 and in the month of July 1992 alone the Canadian economy lost 129,000 full-time jobs, the largest monthly drop in full-time employ-

ment ever recorded. If we allow the federal government to barrel ahead with the North American free trade agreement, there will be even further mass layoffs, plant closures and devastation of people's lives.

The amendments on plant closures and adjustments are extremely weak. There is no enforcement mechanism but merely guidelines for the content of adjustment plans.

Subsection 41.1(5) states that such a plan "may include provisions respecting any of the following: 1. Consideration of alternatives to terminating the employees' employment. 2. Human resource planning and employee counselling and retraining. 3. Notice of termination. 4. Severance pay and termination pay. 5. Entitlement to pension and other benefits including early retirement benefits. 6. A bipartite process for overseeing the implementation of the adjustment plan."

At the very least, the bill should be amended so that the act reads "An adjustment plan shall include the above provisions," and minimum standards for each of the provisions need to be established.

In conclusion, it is time the myths about labour law reform were laid to rest. Quite clearly, unionization and economic progress and productivity go hand in hand. Even more important, unionization and equity and justice for workers are directly connected.

We believe that the moderate reforms proposed by Bill 40 will allow the most exploited and vulnerable groups, women, immigrant workers and workers of colour, to reap the benefits of collective organization and collective bargaining and therefore to be more equal participants in this society.

We commend the government for introducing Bill 40 and hope that our concerns and the concerns expressed by the rest of the labour movement will be taken into account when preparing the final draft of the legislation.

**The Chair:** Thank you. Four minutes per caucus.

**Mrs Witmer:** Thank you very much for your presentation on behalf of the labour council. You indicated here that you're concerned about the campaign that's been lodged in this province and you've indicated that all of the pieces of legislation are present elsewhere. I'd like to just share with you the fact that the third-party property proposal, the first-contract arbitration proposal, the full-time, part-time combination of units in one bargaining unit, the purpose clause, and I could go on and on, are not part of any other province in Canada.

Also, you've indicated that identical labour reforms have not led to any mass exodus of business from the provinces in which they've been enacted. I can tell you that in Quebec, when the replacement worker section was introduced, it did lead to some companies moving south of the border and to other provinces, it did lead to some closings and it did lead to the establishment of another plant where they could keep their operation going to make sure that they could fulfil their contractual obligations. I think you have to be very careful when you make blanket statements to make sure that you know the facts are there.

I guess my question to you is this: We're involved in a process now that has seen polarization on both sides and

probably half of the presentations have been similar to yours and have indicated that the reforms are on target; in fact they probably haven't gone far enough. However, the other half of the presentations have indicated great concern, have indicated that there's going to be job loss as a result of this legislation and some of the other legislation that's being presented by this government.

If we're truly involved in a consultation process and if we truly want to have a win-win situation in this province where everybody at the end of the day feels good and we truly are going to improve the labour climate in this province, which is critical, what are you willing to compromise on, which points in this Bill 40?

**Ms Torney:** There are three or four parts to that. First of all, I'm looking much farther than Canada when I point to existing labour legislation. I think you will find highly unionized countries have a great record of employee-employer relationships and a much stronger set of labour laws than we have probably anywhere in this country. You should be looking at those places as well as other provinces in Canada.

With regard to the job loss portion of your question, I get out of this that you're talking about some kind of consensual process. I think that more discussion has gone on around this particular piece of legislation than probably any other piece of legislation ever introduced anywhere. We went through an initial discussion, we're going through another discussion, and I think there are very obviously two points of view on this.

If you look back into the history of labour relations in Canada, you will find threats of job loss and pulling out every time every single piece of labour legislation has been introduced. In some senses, I don't think you can blame us in the labour movement for being somewhat sceptical about that, because we do know that it's the profit, the bottom line, that often governs these things.

Prior to any suggestion of Ontario Labour Relations Act amendments being introduced in this province, we in this city who began to experience the effects of what I now call a depression as opposed to a recession began to feel those job losses, and those job losses were nothing more than people being allowed free movement of capital because of the total removing of any economic restrictions by our federal government.

What happened as a result of that was that people went where they could make the easiest buck and where they could make it the cheapest. They did not move because of the OLRA, I don't believe, although the business community says it's because of the OLRA, that if they do close down here, that's the reason. The reason will be to take advantage of cheap labour in Mexico with the North American free trade agreement sitting and facing us.

Quite frankly, as a representative of workers in this province, I am not prepared to say that workers can be treated as shoddily as any corporation wishes for the sake of the bottom line. So I don't believe that the job loss is an issue.

In terms of whether we are willing to compromise, I think we have already compromised a great deal. I think what I've done in our brief is to commend the government

for bringing forth a piece of legislation and to suggest numerous areas in which we think there should be further changes. If you compare this piece of legislation to the suggestions made by the labour movement at the time the initial discussions were going on, I think you will find that we've compromised a great deal already.

**Mrs Cunningham:** Just to jump in, with regard to even the research we were presented by our research department today, taking a look at the consultation process and impact studies, I think the underlying tone of this is that you need people to work together.

You can take one side or the other, but the most successful companies, as a result of this research, whether they unionize or otherwise, but especially where they unionize, are where people have worked together. That's what we're attempting to do in this committee, to get everyone's concerns.

You've been sitting here this afternoon and you probably recognize that there are legitimate concerns on both sides. But I'm just taking that for granted; maybe you don't. I'm wondering if you would comment on that.

**Ms Torney:** I think you have to understand that I think a lot of people, if they have never experienced a union in their place of business from the management side, operate from a great number of misconceptions which, quite frankly, may well be fuelled by some of the poor employers in this province. I am not for a moment suggesting that all employers are poor employers, but I can tell you that we've run across those who are.

Let me give you an example of an unorganized garment plant which we discovered here in Toronto a couple of years ago now, where the employer had a Christmas party for the staff each year—sounds good so far, right?—and in the course of that Christmas party auctioned off or drew a lottery for the two employees in that plant who would receive two weeks' paid vacation in the coming year. These were all Chinese immigrant workers and they didn't understand that they were all entitled to two weeks. So we have documented cases of poor employers.

**Mrs Cunningham:** I think you and I would know there are a lot of them.

**The Chair:** Mr Wood.

**Mrs Cunningham:** Mr Chairman, I was finished, but I would like the opportunity to say thank you. Thank you very much.

**Mr Len Wood (Cochrane North):** Thank you very much, Linda, for coming forward with your excellent presentation.

I just want to follow up one of the questions Elizabeth had asked earlier, and then I'll get into another one. Do you feel the business coalition, before it launched its campaign back in February 1991, should have done an impact study to see if there was going to be a job loss as a result of its billboards and the campaign it has been carrying on until this point, from before the bill was brought forward and again during it?



1630

**Ms Torney:** Some of the statements that have been made by some members of the business community I think are appalling. I don't know that an impact study would have shown anything; I don't know how you measure that sort of thing. But there certainly have been fear tactics. The fact is that only about 5% of the labour disputes in this province end up in a strike-lockout situation. I know personally of businesses which have said that life has become easier for them under collective bargaining than it was when they were dealing independently and individually, one employee to another. I think there's an awful lot of not understanding what goes on at the bargaining table.

Workers in this province already have, by law, the right to organize. All we're doing with this piece of legislation is removing barriers that have prevented workers from organizing. If we say they have the right and that right should be there, then I can't understand what the hysteria is about. If the business community wants to say that workers should not have the right to organize, then say it up front and then we'll know. We'll have it clearly defined what the dispute is and we won't be messing around with the job loss issues and that sort of thing, which I see as smoke and mirrors to the real problem, which is that some people would like to outlaw unions in this country altogether.

**Mr Offer:** Thank you very much. You've spoken about this hysteria that's been whipped up, and I think you'll be aware that the concerns about the bill have not just been the monopoly of business. There have been other groups that have been concerned about the bill: children's aid societies, school boards, local hydro services, municipalities, hospitals, and the list goes on and on. I don't know that you would want to categorize those individuals and associations with concerns as falling into this catch-all you seem to have been indicating.

In your brief it's clear that you know, and it's indicated quite clearly, that Bill 40 will do nothing at all for domestics, will do nothing for home workers in this province, because of the wording of the bill.

You've also drawn a connection between part-time workers and women, and I think I understand that. The bill allows that a full-time workers' unit would be able to take over a part-time workers' unit even if the part-time workers did not want to be in a combined unit. This bill would allow that to happen, notwithstanding the wishes of the part-time unit. Do you believe, in principle, that it is fair and just that the rights and wishes of part-time workers could be superseded by full-time workers, even if the part-time workers do not want to be part?

**Ms Torney:** First of all, in my experience the full-time workers are usually those who have negotiated the benefits and conditions of work to which part-time units often don't have access. I'm an employer as well, by the way, and in my own staff I would phrase it exactly the opposite. You've talked about full-time units taking over a part-time unit. I happen to have one bargaining unit in my own staff in which the part-time unit is vastly bigger than the full-time unit.

**Mr Offer:** The principle still applies.

**Ms Torney:** But in my experience as a union organizer I have never once seen a situation in which the part-time workers did not wish to be part of the full-time unit—not one. But every single time I went into an application for certification procedure with a part-time unit and a full-time unit, the employer always moved for the separation of those units. I have to ask why that is. The reason is that in fact part-time workers don't get the benefits, so as long as you do not consolidate those units, you've still discriminated against part-time workers. They are a growing number of workers, not by their own choice but because of economic necessity in our province today, and especially in this city.

**The Chair:** Thank you. This committee wants to thank Linda Torney and the Labour Council of Metropolitan Toronto and York Region for their interest in this matter and for your participation in this process here. You've made a valuable contribution and we're grateful to you.

#### FEDERATION OF TEMPORARY HELP SERVICES

**The Chair:** The next participant is the Federation of Temporary Help Services. Will those people come forward and have a seat, tell us their names and titles and proceed with their submissions, trying to save, of course, the last 15 minutes for exchanges and questions.

**Mr Don Braden:** Good afternoon, Mr Chairman. My name is Don Braden and I'm the senior public affairs staff person with the Federation of Temporary Help Services. I'd like to introduce Derek Osler, chair of our government and labour relations committee; Steve Jones, the national president-elect of the association, and Liz Tower, the national director of the federation. I should note that these three individuals also operate temporary help service firms in Ontario. Also with us is Stan Mandarich, also of the association staff. Mr Osler will make the presentation, and we will obviously be available for questions following.

**Mr Derek Osler:** As an introduction, I'd like to start by informing you that the organization formed in 1968, the Federation of Temporary Help Services—which we will drop down to FTHS for purposes of speed—is the only trade association representing the temporary help services industry in Canada. Membership is comprised of approximately 500 temporary help service offices across Canada, including some 300 in the province of Ontario.

With an annual temporary help payroll estimated in the range of \$800 million, temporary help service companies are engaged in the business of supplying temporary help services in virtually every type of business and public institution. The categories of work may include but are not limited to office administration and support staff, data and word processing, industrial, marketing, technical, professional and health care.

FTHS promotes awareness within its membership and the industry as a whole of all legislation and regulations affecting the temporary help service industry and addresses employment issues as they affect both the employer and the temporary workers as employees.

The Economic Council of Canada reported that employment in the industry increased about 2.5 times in the 1980s, to reach about 82,000 in 1989. Clearly, the

temporary help industry must be viewed as a major Canadian employer.

It will be useful to describe how the industry works. Temporary help service firms hire their employees through well-established application, interviewing and testing procedures. Unlike their permanent employees, temporary help employees are hired to meet the temporary help service firm's demands from its clients. This demand is based upon skill sets required at certain times in the marketplace. A successful firm will develop a roster of temporary employees which best meets the demand of its clients. The permanent employees of the temporary help service firm are hired to fill the firm's internal staff requirements.

Temporary help employees are sent to the client's place of work to meet specific client requests. A typical request would include the skill required, the duration of the assignment, location of the assignment and the cost range. The temporary help service firm then goes through its roster of temporary workers to find the best-suited and available individual to send to the client. The employee can either accept or choose not to take the assignment. If the assignment is not taken, the employee is placed back in the roster for another assignment.

It is important to note that there is a definite distinction between temporary work and part-time work. The following is the federation's definition of temporary work:

Temporary work means the full-time performance of a task, although of limited duration. The employee of the temporary help service company normally works full-time at the client's place of work, until an assignment has been completed.

Temporary help employees are assigned to all sectors of the economy, both private and public. The typical assignment lasts three weeks, although the period can range from hours to several months.

#### 1640

The source of a flexible and multiskilled workforce has considerable benefits to the economy. Temporary help is an effective buffer to swings in the performance of the economy. As the economy grows, temporary help provides a safe ramp up for a business, which can move to permanent staff as the growth is sustained. As the economy turns down, temporary help permits employees to stay in the workforce until the cycle rebounds. Temporary help is also a major entry-level avenue for immigrant workers or workers returning to the workforce after an absence. These new workers are eased into the workforce in a professional manner, often with the benefit of job-specific training.

It is also important to understand that the temporary help service firm is the employer of record of the temporary worker. This position meets all the usual common-law tests of the employer of record. The temporary help service firm makes all the payroll deductions of the temporary worker and issues the payroll cheque to the employee. The client pays the temporary help service firm's invoice for the provision of the temporary worker.

FTHS members have taken joint action to improve the work conditions and compensation for temporary help workers. Education on the workplace hazardous materials information system and a clear policy on the shared

WHMIS responsibility of the temporary help service firm and the client have ensured safe work conditions for the temporary workers. FTFS members also work to ensure that all occupational health and safety criteria are met. A pay equity manual and education courses have assisted members in complying with this legislation. The federation works extensively with the Workers' Compensation Board to ensure that employees are adequately protected under that program. The federation has also instituted a flexible benefits plan for all employees, thereby providing temporary workers with benefits similar to and in some cases exceeding permanent employees in other industries.

Federation members acknowledge that their temporary help employees are their key business asset. Significant strides have been taken by the federation and individual members to ensure that they maintain a roster of excellent and motivated temporary help employees. The federation makes these submissions as a significant and responsible employer group in Ontario.

Summary of the FTFS position on Bill 40: The goals of enhancing international competitiveness, improving labour-management cooperation and improving labour conditions do not require increased union activity. The proposed reforms will not help the government achieve its stated goals. The temporary help industry has specific concerns over successor rights and unintentional union certification. The application of general labour legislation and long-term cooperative arrangements are alternatives available to more appropriately meet the government's goal.

The purpose of Bill 40: The government set out the main purposes of the legislation in a discussion paper in November 1991. Following a series of presentations to the ministry, the legislation as we now see it was tabled. These broad purposes are now found in a new proposed purpose section in the bill. Generally, the purpose is stated as being to facilitate union organization and encourage improved labour-management relations. The legislation will purportedly contribute to the broad economic goals of making Ontario's economy stronger and more competitive.

Fundamental to the proposed legislation is the position that strengthened trade union development will ensure success in meeting the economic goals set out above. The government's support of the needed growth of trade unions in the economy stands in contrast to the declining levels of union participation in the workforce and the lack of general public support for unions. A recent Decima poll indicated that a majority of the general public feels the proposed reforms will not increase investment or jobs, and over 80% feel the government should abandon the reforms.

#### Deficiencies of the bill:

1. Worsens labour-management cooperation: It would be hard to argue with the position that improved cooperation among government, labour and management will enhance Ontario's ability to create jobs and successfully compete internationally. Both Canada's and Ontario's reputation of lost hours to strikes is not enviable and has undoubtedly reduced the level of business investment in this country.

However, the federation is not aware of any evidence on the positive impact of unions on productivity and on workplace harmony. The broad analogies with several



economically successful nations which have strong trade union movements do not point out the significant cultural and political differences between these countries and Canada.

In our view, there are several aspects of the proposed legislation which will worsen labour-management cooperation. This legislation would increase the level of strikes both in terms of the extension of the workers affected by a strike and the profile of the strike lines. As strike activity is the most damaging to labour-management cooperation, any increase in strike activity will work against cooperation and generally worsen the economy as the strike continues.

First, the bill would extend the impact of a strike beyond the affected parties to prohibit the use of new hires, employees from other locations and contractors, as well as employees on strike who want to cross their union picket line. Not only is this a significant intrusion into employee freedoms, it eliminates the balance at the negotiating table that compels both parties to stay and seek agreement. If companies are unable to maintain their supplier commitments to their customers, the business and the jobs may be lost for ever. This proposed reform effectively extends the bargaining union's negotiating power at a particular firm to all other unions with similar clauses in their agreements.

The federation notes that its members have nothing to gain by objecting to this reform. The federation has had guidelines in place for a number of years which recommend that members do not supply labour during a work stoppage. Replacing the struck workforce is not a common practice in Ontario industry. Even if new hires have been the cause of conflict, this problem can be addressed by prohibiting the hiring of new employees without depriving the employer of the flexibility to carry on basic operations with the remainder of its existing workforce.

Second, the bill would permit employees to picket on property of a third party where the public also has access. The expansion of pickets into areas of general public traffic, even if limited to entrances and exits of workplaces, is bound to increase the tension of the picket line and lead to inflamed reactions. The expansion of the picket line would also interfere with non-affected employees and management, and accordingly not generally enhance labour-management cooperation.

In conclusion, FTHS does not believe that the legislation as written will enhance management-labour peace. On the contrary, the specific amendments discussed above will worsen relations and should be changed.

On a more general level, it is clear from the public debate surrounding this proposed legislation that the very process and the content of the legislation have already worsened management-labour cooperation and weakened the government considerably.

2. Worsens Ontario's competitive position: The discussion paper described changes in work, the workplace and the workforce, concluding that there is an increasingly vulnerable group of workers with poor wages and job conditions and few benefits. Concerns about the changes include shifts from full-time manufacturing jobs to part-time, semi-skilled service jobs and disproportionate adverse effects on women and ethnic minorities.

The bill places complete reliance on the notion that increased levels of trade unionism will enhance the economic strength of Ontario, increase labour-management cooperation and extend benefits to disadvantaged groups. Of great concern to FTHS is the complete lack of analysis to support this key proposition.

The federation agrees that trade unionism will increase wage rates, although not automatically increase the long-term income of workers. We also agree that higher wages are not the sole reason for Ontario's lack of competitiveness. However, the bill does not deal with the serious non-wage constraints caused by collective bargaining. The formal grievances, seniority versus performance promotions, elaborate work rules etc, are burdens for large corporations. To place this level of workplace rules on smaller firms will cause irreparable harm to the Ontario economy.

The expanded scope of strike activity will cause special hardship in today's new industrial organizations. For example, just-in-time inventory is increasingly the rule in many industries. Delays in production today will cause serious problems throughout the economy as the implications ripple through industries. Struck suppliers may never recover from losses as customers move to competitors for supply.

The international scope of economic activity has also created interdependencies which increase the adverse effect of work stoppages. Multinational firms cannot afford to have weak links in the firm's component operations. Furthermore, strategic partnerships between large corporations require confidence in supplier relationships. These international operations will simply bypass areas which cause weaknesses in the links.

Accordingly, the federation submits that the incentives in the legislation for increased trade unionism have gone too far. FTHS is aware that the committee will be hearing detailed submissions on these portions of the bill. We urge you to give them careful consideration in your deliberations.

Specific temporary help issues: The basic position of the federation is that the legislation, as written, should not proceed. We've indicated above in broad terms why the federation has come to this conclusion. There are two areas specific to the temporary help industry which also demonstrate that the legislation needs improvement.

#### 1650

1. Successor rights: The federation must comment on the proposal to apply successor rights to the contracting in of work in the contract service sector where building cleaning services, food services and "related" services are performed on an owner's premises. The bill excludes construction, maintenance and production or manufacturing operations from the obligation. The understood purpose of successor rights is to protect the vested benefits of permanent employees in the contract sector where work is retendered and continues to be performed on the premises by a different employer.

Temporary help employees are not permanent employees and have the right to work or not work on any assignment. Should a temporary help contract be transferred from one contractor to another, the original temporary help

service firm will keep the employees on its roster and will attempt to find new temporary assignments for its employees. This process would also be followed in the case where the temporary help employee was on assignment with a contractor who lost a tender. The vested benefits of the temporary help employee remain safeguarded with his employer, the temporary help service firm.

We are concerned that in future the catch-all term "related services" may be interpreted to apply to temporary help services. We propose that the bill be amended to provide for an explicit exclusion for temporary help services from the obligations related to contracting in of work.

I'd like to ask Mr Jones if he can take over and continue with a voice a little clearer than mine for the balance of this submission. Thank you very much.

**Mr Steve Jones:** It's a ploy to wake you up.

The federation is concerned that its temporary workers could become unionized while assigned at a client's premise. Although employees of the temporary help service firm, the temporary employees could become involved in the certification process during a lengthy assignment. Specifically, we're concerned that the Ontario Labour Relations Board could find that our employees are actually employees of our clients for labour relations purposes in the event that a union began an organization campaign at our client's premises and made an application for certification.

As well, the temporary help service firm might be deemed to be the employer in the certification process. The end result would be unfortunate confusion for the temporary help employees and the union organizers. The validity of the bargaining unit could be in question. Temporary help service firms would face confusion over wage rates and effectively have their wage policies overtaken by a third-party bargaining unit.

The lack of precision in the definition of "employee" in the current Labour Relations Act, coupled with the lack of overall definition of "employer" in the bill, has created further general uncertainty for our industry. If the temporary help worker became a member of the client's bargaining unit, which became involved in a strike, would the worker be prevented from accepting a new assignment from the temporary help service firm? The proposed prohibition of striking workers crossing picket lines may create a problem in the temporary help worker's relationship with the temporary help service firm beyond the specific assignment with the struck client.

The definition of "employer" in section 32 of the bill creates specific difficulties for our industry. Would the reinstatement provision only apply as long as the temporary help service firm maintains a relationship with the client whose employees are on strike? Would the temporary worker be eligible for reinstatement with another client of the temporary help service firm? If so, would temporary workers already on assignment be removed in order to allow the striking worker to be reinstated? The federation respectfully submits that the legislation or regulations need to address these very specific issues for our industry.

Alternatives: Amendments to the bill to redress the imbalance towards unionism need not to be seen as a loss to

any part of the economy. The government and Legislature have several alternatives to ensure that the goal of increased management-labour cooperation is achieved.

Use laws of general application: As a society, we have all been concerned about the disadvantages and vulnerabilities in the workplace. The government is correct to describe these issues as serious matters for government attention. However, it is a significant jump in logic to assume that increased union activity will resolve these issues. It is our view that numerous social activist groups have become more innovative and effective in putting forward solutions.

It is clear that laws of general application can address these issues without all the downsides of increased unionism. Laws such as minimum wage, occupational health and safety, WHMIS, pay equity, employment equity and human rights are all focused on solving the social problems identified above. The announced reform of the labour standards legislation will also deal with these issues. By focusing government's attention on laws of general application, all employees will benefit rather than only those affected by the bargaining units.

Need for tripartite long-term consultation: As noted at the beginning of this submission, the federation agrees that greater cooperation between labour and management will enhance Ontario's economy. It is our view that this cooperation cannot be forced through legislation or by focusing on traditional labour-management friction points. Without underestimating the difficulty in achieving this cooperation, the federation is encouraged by several examples in Canada.

The federation has been involved with the Canadian Labour Market and Productivity Centre and has been very impressed by the serious cooperative efforts of management and labour participants. One concrete example of the work has been the establishment of the Canadian Labour Force Development Board to coordinate training policy. Notably, CLFDB has included social activist groups with the traditional business-labour-government partnership.

The federation submits that concrete cooperative efforts as described above will enhance labour-management relationships. These examples are closer to the labour-management relationships to which we all aspire. This is the positive direction for ensuring all employees have a meaningful occupation. The federation believes that the current government is well positioned to bring the employee groups into this process. As a major employer group in Ontario, the federation would be pleased to work with the government and Legislature to improve the long-term labour relations in Ontario. Thank you.

**The Chair:** Thank you. Ms Murdock, two minutes, please.

**Ms Murdock:** Actually, this is the first time, even in the consultations that the minister and I did in January and February, that we have heard from a temporary help employer, or at least that I have, in the consultation process and then through this process. I want to thank you for bringing that perspective.



Throughout the presentation I had the sense that you're working on the premise that unionization will mushroom should Bill 40 pass. From the sound of it, you have a benefits plan with your employees and they're your employees as per common law, so I can't imagine the distinction being included under your client group kind of thing. But if they're happy now and are capable of organizing, why would Bill 40 change that?

**Mr Jones:** Our concern is not so much that a group of employees who are specifically employed by a temporary help service firm attempt to create a collective bargaining unit inside the firm. I suppose that's possible, and our concern isn't that. We think that our employees are happy and we believe that our employees are given substantial benefits and opportunities, specifically in the training areas and in fair wages, so that we're not going to see it happen specifically in our industry.

I don't interpret our presentation to say, "We don't want our industry to be unionized intentionally." Our concern is more when one of our employees is on an assignment with a client and there is an effort to have our employee sign a certification card and become involved in the certification process and we are involved as a third party.

This has happened. For example, I believe one very specific one was either the Liquor Control Board or the Liquor Licensing Board of Ontario. This goes back several years. But that was the first most significant effort in the province, and what happened was temporary employees who were there for a fixed term were involved in what should be considered the long-term-benefit negotiations on behalf of the employees when they didn't have long-term interests.

That issue was settled. However, there have been several other instances over the past few years where organization is taking place and the labour groups are attempting to draw in the temporary employees to participate with them. Under the definition of the employee or employer within the act, this clearly—I shouldn't use the word "clearly"—can become ambiguous. It's possible that if there isn't specific wording that will define the temporary worker—we've offered one definition in our paper today—in the future these workers can be drawn in. So we're more concerned about the unintentional certification than the intentional certification.

**Mr Offer:** Thank you for your presentation. It is touching upon an area from yourself that we have not yet heard in the public hearings. I do thank you for bringing that forward.

On page 11, you speak about the need for a tripartite long-term consultation. I think you will know that this type of tripartite consultation has been asked for for almost a year by business groups and the government has not set up such a group to look at these changes, not only looking at the changes, but also with a view to the impact that these changes may or may not have, as the case may be. So unfortunately, though I very much agree with that need, I'm a little saddened that the government hasn't seen fit to agree with you.

I understood that your concern was that your employees would be swallowed up or find themselves in the centre of some organizational campaign. Do you believe, as a result, that there is the need for a definition of the employer and employee so as to meet your concerns?

**Mr Braden:** That's correct. For instance, in section 32 of the bill, we think the word "permanent" in the definition there would help us in that particular one. The broader issue is, there is really no common definition of employer throughout the bill. Again, we think either through regulation or the act that there is a need for one and that it would reflect our unique concerns.

Can I just say, if I may, Mr Chairman, that Minister Haslam actually just concluded a fairly in-depth consultation with labour and management and government in the area of telecommunications. She's about to table a report. I think there is some opportunity to build on that. Hopefully, that was a useful exercise, and I think if we could keep doing that it would be great.

**Mrs Witmer:** Thank you very much for your presentation, as has been already echoed by the other two parties. I really do appreciate this new perspective and I would hope the government would give very serious consideration to the two specific concerns you do have in order to address the problems that could result if the legislation does proceed as suggested.

You indicate here that you are concerned that there's not been any analysis done to support the fact that this will enhance the economic strength of Ontario or that it will indeed increase labour-management cooperation and extend benefits to the disadvantaged groups.

At this point in time, we know that the government has consistently refused to conduct an economic impact study and in the process has tended to indicate that the studies that have been done independently are not accurate. Are you still suggesting at this stage, before the government does implement Bill 40, that it should first do an economic impact study?

**Mr Osler:** If I could answer that question, yes definitely. It's like forming a company. You don't form a company without presenting a business plan and doing a study: Is your product going to be serviceable or required by the market? Industries have shown that their studies have indicated it is going to economically adversely affect this province both in investment and in job loss.

I think that if the government is refuting what industry is saying, then the government should itself do its own study and come up with figures and come up with statements as to why this legislation is not going to do what industry says it's going to do. One has done a feasibility study and finds it unfeasible. The other refuses to do a feasibility study and says it's feasible.

**The Chair:** I want to say thank you on behalf of the committee to the Federation of Temporary Help Services for bringing a novel perspective to this issue. We appreciate your interest and your eagerness to participate in the process. Thank you, people. Take care. We are recessed until 6:30.

The committee recessed at 1705.

## EVENING SITTING

The committee resumed at 1830.

## WOMEN FOR LABOUR LAW REFORM

**The Chair:** It's 6:30 and we're going to resume these hearings. The first participant this evening is Women for Labour Law Reform. Would they please come forward, have a seat and tell us their names and titles, if any. We've got your written submission and we're eager to hear what you have to say. Try to save at least 15 minutes for exchanges and dialogue. Go ahead.

**Ms Janet Maher:** Sure thing. My name is Janet Maher. I'm with Women for Labour Law Reform. With me is Daina Green.

I just want to take a minute or two to tell you who Women for Labour Law Reform is, and then Daina will go through the body of the presentation. We do hope to be able to engage you in some conversation over the issues that we raise.

Interjection.

**Ms Maher:** Okay. I'm advised we should go a little bit slower for the interpreters.

Women for Labour Law Reform came together just about a year ago as the discussion paper was coming out and there was a concern being expressed in the women's community about how much actually would come out of this round of labour law reform that would be of specific help to women. We did quite a detailed evaluation of the discussion paper, we've been having meetings throughout the year since then, and I think it's fair to say that this coalition, which represents a lot of women really at the margins and at the bottom levels of the working structure, home workers, domestic workers, child care workers—women who are generally in those sectors which are not easily accessible to labour unions are the women we talked with the most.

I want to give you now to Daina Green, and I'll come back and talk in some detail at the tail end.

**Ms Daina Green:** A woman shouldn't have to be a hero to achieve union representation. That might sound like an odd statement, but under the current Labour Relations Act a woman and her coworkers need great courage and personal strength to succeed in a campaign for a collective voice.

When women decide to get together in a workplace and they say, "We really need a union here; we need to form a union," there's no shortage of coworkers who will immediately tell them, "Oh, we'll never get a union in here; the boss will never let us," or, "He'll fire us all."

We found that in fact many employers find ways to alarm workers about retaliation if they become involved with a campaign to form a union. This might appear subtle. Employers are usually aware of the limits of the law and just how much suggestion they can make that won't be considered intimidation at the labour board. But there's a general sense of, "You'd better not do this; you'd better think twice, ladies; it's a bad market out there, girls," and this kind of stuff.

Enough times, these employers make good on their threats. We know personally of cases, and the women who are in our group know of cases, where employees who have been involved in a drive to organize a union find themselves demoted, getting transferred to more unpleasant duties, laid off or discharged without cause. Usually one or two of these actions is symbolic and enough to get the workers really scared, and then they say, "Well, maybe we shouldn't rock the boat."

When workers do manage to get enough of their coworkers signed up to certify a bargaining unit, then comes the often charade at the labour relations board. Employers go through tiny details on the cards and use many technicalities to delay the process of certification. "The date on this card doesn't match the date on this card." "What do you mean?" "Well, this one says August, A-U-G-U-S-T, and here it says A-U-G. That's not the same," and the card will get thrown out. This is a process that goes on and on. Anyone familiar with the labour relations certification process can tell you about this.

If employers resist the negotiating of a first contract, even once the workers are allowed to form a union, then you get the situation where the employees have turned over by then and many of them weren't even on the payroll at the time of the original organizing drive. These are precarious employment situations we're talking about. Once the move to resist the first contract comes up, the workers may just give up in frustration and move to decertify the union. This has happened a lot.

There's a tremendous power imbalance. This is a very important point to me, because in the papers what we're seeing is this need to balance the power so workers don't have too much power, as if even unionized workers had anywhere near the same kind of ability to control outcomes that their employers do. We're talking about women in low-paid, precarious and especially part-time employment.

Our coalition believes that the proposed amendments will help eliminate the gap that exists between the right to association and the freedom to exercise that right. This gap, in our experience, is very, very real. A large number of women who don't belong to unions in their jobs are very discouraged about being successful and overcoming intimidation and bureaucracy. If you talk to them about forming a union, they'll say: "Oh, it wouldn't work here. A few of us tried that two years ago and someone was fired." They all have these stories about how it wouldn't work. They're very intimidated and they're discouraged. They know of organizing attempts where employers were able to break up a drive for union representation by firing or demoting the suspected or actual leaders, disciplining the workers the management believed were involved in the campaign or sending home a lot of very frightening, official-looking papers and letters that have been written by lawyers that are all within the margin of the law of what you are allowed to say. These are interferences that block women workers who desperately need their jobs from their access to the right to association.



The workers we think are most likely to benefit from the proposed changes to the Labour Relations Act, which reduce the barriers to union organizing for women in these precarious jobs—there are a few of them, but I want to emphasize that there isn't anything in these proposed changes that would put pressure on workers to join unions. There is nothing in these proposals that would cause any amount of force to be put on workers to organize against their collective will. These amendments are simply barrier removal, and these are also women who find it very difficult to be heard by society, which is one reason why we thought it was very important to come forward as a group and speak to your committee.

The measures we think are going to be most helpful to these women are the five that are listed here.

Fast-tracking the resolution of unfair labour practice complaints: In a drive, someone gets demoted, but nothing happens. It can be drawn out. The person's demoted or the person's fired. That person will probably get her job back six months later, but meanwhile what happens to your organizing drive? It's been successfully defeated. We think fast-tracking those complaints—as soon as you find out that the boss is spying on what's happening in the washroom or any of those things that are patently against the Labour Relations Act, there should be a fast resolution to them.

We support the consolidation of bargaining units. We think this would be especially important—I'll say a little bit more about this—in trust companies and in retail branch outlets.

Better provisions to make sure that workers get a first contract once they certify: Even if you have a perfect certification process, if it doesn't lead to a collective agreement, people will say: "Why should we bother? We'll just be out on the bricks. We'll just be on strike for our first contract, or waiting for months and months and months, so why bother?"

Restrictions on replacement workers: In those very few cases where there is a strike, where there needs to be a strike—and right now over 90% of all contract renewals are settled without a strike. First contracts are a different matter in this province because it's so stacked against workers and sometimes they have to strike in order to get a first contract. But you need to make them short, and the way to make them short is to make sure that both parties are receiving the impact of the strike in the same way at the beginning. That means the work stops. You don't bring in a lot of people to draw it out and use the employer's larger capacity to hire people against the workers' will to just get their basic rights.

1840

The last one is the increased access to third-party property. Because of our changing situations about where stores are located, since it's not on Main Street any more but in Dufferin Mall, the proprietor doesn't own the premises where the operations are, and it's important to have access to that mall to be able to get in there and do the organizing work.

These are very modest changes, and they will help to reassure women who wish to form a union in their work-

place that their efforts won't be thwarted, and it means they won't automatically be defeated by employers who'd rather put money into defeating the drive than into improving working relationships.

We have read and we have heard employer groups making overt threats before your committee and in the press that modifications will deter business owners from establishing and maintaining their enterprises in Ontario. We don't think the demographics of employment conditions bear this out. We're talking about the people who are most likely to be affected, who are clearly the ones who are not already organized. These are small workplaces, often fewer than 20 employees, and some of these workplaces, like homes and home work situations, have only one or two workers.

Under the current rules, these units are so small that most trade unions find it a real challenge to provide services. That's one reason why there are relatively few organizing campaigns under way at any one time, and fewer still that result in a long-term collective bargaining relationship.

The trend towards smaller and smaller workplaces is an indication that even these significant modifications of the rules for organizing new units will not likely result in greatly increased rates of unionization. What we're trying to do is remove barriers so that the mechanisms we have now for collective bargaining will be opened, especially to women in small workplaces. But that isn't going to really, drastically change the situation of unionization for these groups.

The changes of consolidation of bargaining units will give some workers, like trust company employees and retail store workers and other branch employees, more opportunities to bargain for improved conditions of work. But for many other sectors, like home workers, child care workers—I'm sure Janet can think of a few other sectors—we need new and broader models for bargaining that extend beyond individual workplaces. That's the only way we're going to make a real change, and these are the new models that will need to fit the realities of changing workplaces in the 1990s.

So while we find that these labour law reforms are urgently needed, they need to be strengthened by other legislative changes to improve the situation of the working poor, women and men, who are most vulnerable to unfair conditions. The extension of the pay equity law, for instance, to cover women in all-female workplaces will significantly increase the market value of traditional women's work. The recently introduced employment equity bill must include strong measures to apply to unorganized establishments so that barriers to hiring and promotion for women and members of other designated groups are removed. And, equally important, we need changes to the Employment Standards Act, because that is the main source of protection for minimum-wage workers and non-unionized workers.

We really regret that employers have chosen to portray the proposed changes as fostering conflict rather than, as we see it, promoting harmonious, productive relations and improving the effectiveness of dispute mechanisms.

Our Labour Relations Act came into being in order to take labour out of competition so that companies could compete for goods and services without having to underdo each other and save on wages. That has been very effective in Ontario and a lot of other places. We don't think that is changed substantially by these amendments.

We think the real reason the business sector has taken this position is driven more by power politics than by common sense. We haven't seen very many concrete objections to which we could make a reasoned response. Business groups are using the government's proposals for labour law change as a platform to bash the party in power. They would have disagreed with any changes, no matter how modest. This is evident by the vagueness and outright hysteria of their objections.

We would urge the government to approve these modifications and stay its course, because we feel it's the role of the government to defend the rights of the most vulnerable workers in our province, who contribute so much in relation to what they get back.

**Ms Maher:** I'd like to recap, first of all, the point that we see the legislative proposals you're presenting to us as a step in the right direction, but they represent a compromise, and we're a little bit disappointed at the product of that compromise, in that we think it will result in very few more women being able to organize than currently. We think it's the absolute minimum you can do.

What still is problematic and what we urge the committee really to take into account very seriously is the lack of real access for women in very small workplaces. A number of other groups have come before you to encourage a task force and serious investigation as strategies for broader-based bargaining. We want to echo and support that request.

The other thing we want to commend you to consider as you write your report is that for the many women these provisions will not help, there are other remedies. I want to remind you that we have an Employment Standards Act, we have minimum wage legislation, we have an existing Labour Relations Act, all of which have provisions which we think are only intermittently and often ineffectively enforced. We suggest that you might make recommendations through the minister and through the other processes which are available to the government to provide for more enforcement. We're a little disappointed that when this piece of legislation came forward, it didn't come forward in the context of a broader review of employment standards in all of our labour practices.

I think the other thing to say, to reiterate where Daina left off, is that it's important to maintain the current legislative schedule and to move ahead to pick up on the pay equity and employment equity initiatives, which seem to be sitting out there, as far as we can see.

We'd be happy to answer any questions you have.

**The Chair:** Thank you. Four minutes per caucus.

**Mr McGuinty:** Thank you both for your presentation. There's no doubt that you speak on behalf of a special constituency which has particular needs which have often been overlooked in the workplace.

**Ms Maher:** And half the population.

**Mr McGuinty:** One of the things I've learned since sitting on this committee is that when an organizing drive takes place, there seems to be at present a situation where it's very difficult for a worker to get hold of reliable information. There's information coming from the organizer; there's information, or hints or worse, coming from the employer. In that kind of situation, when those circumstances obtain, would it not be to the benefit of the individual worker that we impose some legislative requirement that some kind of standard notice be delivered to workers advising them that there's an organizing drive under way, telling them, "If your employer does this, this or this, they're in trouble; in fact, they could have automatic certification"? What do you think of that kind of concept?

**Ms Maher:** Daina may have some other things to say, but I try to speak from my experience, which is in small, predominantly voluntary sector employers. I don't particularly recognize the situation that you talk about. At a certain point, I think workers get fed up, recognize that a situation is really unfair and begin to organize. Especially in those small workplaces, it's actually quite difficult to find a union that will put the energy into organizing and so on and so forth, so it's actually a matter of two or three workers getting together and pushing this stuff on.

I don't see what the point would be of a notice requirement. Those things are available, and in any situation where I've been, those pieces of information have been made absolutely clear, even if not in the form of a registered letter or something like that, because there are labour board provisions already in effect which indicate that there are penalties and so on.

One other point about that is that usually the organizing drive isn't declared until after there's been quite a lot of information exchange; because of the need for secrecy, because of the fear of retaliation, a lot of the information goes out before the drive is declared. So I'm a little puzzled about when you would put out such a notice.

1850

**Mr McGuinty:** In your response there, you talked about two things that give me cause for concern. You talked about secrecy. I don't think we should have to have a secret drive. Workers have the right to organize, and if they want to organize it should be done above board.

**Ms Green:** That's why we said give us the list right at the beginning. It's exactly that. It shouldn't have to be done in secret. There should no big stick that the employer can hold over the heads of workers to say, "We'll retaliate," but that is the current condition, lamentable as it may be.

**Mr McGuinty:** What would be wrong, though, with simply advising workers of their rights?

**Ms Green:** There's nothing wrong with it. I agree with Janet that it's not particularly helpful, because they're not—

**Mr McGuinty:** That goes contrary to almost everything we believe in as legislators in terms of advising people of their rights.



**Ms Green:** Let me say this: It wouldn't hurt anybody. If we were looking to expand the protections, I don't think that would actually protect workers from retaliation, but it wouldn't hurt. I don't know if you agree.

**Mr Offer:** I'd like, in the short time available, to carry on. You say it wouldn't help the workers in the current situation. One of the things we have to realize is that in Bill 40, there is a new provision which says that if in an organizing drive an employer is found guilty of an unfair labour practice, has embarked on some sort of intimidation or coercion, then there is automatic certification. We have to keep in mind that proposed amendment to the bill.

But if we want to build upon that protection of the workers and the right to choose, free from intimidation and coercion, should we not expand it to not only include the employer, but to also make certain that the people who are doing the organizing do not, wittingly or unwittingly, intimidate or coerce or misinform the worker? Would you agree that in order to protect the worker, this protection should be expanded to not only the employer but also the organizer, to provide a greater protection to the men and women in the workforce?

**Ms Green:** In my experience, many employers—even poor employers, even public sector employers—will hire the strikebreaking, union-busting type of lawyers and get advice on exactly what wording they can get away with, that sounds intimidating to me but is not a clear violation of the Labour Relations Act. I've seen clear violations of the Labour Relations Act where I've said to the organizer, "We could get automatic certification on this." He says: "No, it wouldn't be that easy. You think it would be easy just because the employer followed this gal home and parked outside her door, but what kind of witnesses do we have?"

Suddenly, you see it's very sophisticated union-busting out there. There's this false notion of equality, that the union is just as likely to pressure people as the employer. It's not so. In my experience of 12 years in the union movement, I have only once or twice—and this was with an inexperienced organizer—seen somebody try to twist somebody's arm. We tell them right away, "You do that, buddy, we're going to lose it."

**Ms Maher:** When push comes to shove, the workers actually get to vote on this, so that's the other piece of the answer to your question.

**Mrs Witmer:** I appreciate that you are here on behalf of a certain segment of women in the province. I think it's important to make the point that certainly you don't speak for all women. I know you are sincere about your concerns.

I'd like to share with you a phone call I received on Friday of last week from a woman who had been involved in a strike situation for five weeks. During that time she felt very intimidated and coerced by the union leadership. She didn't feel she received all the information and she felt she really had no choice in what was going on.

If we're truly concerned about doing what's best—and you talked about these people as being the most vulnerable group in society—how can we ensure that women are pro-

tected not only from employers, who you say harass, but also from union organizers who harass? What protection can be provided for women? Believe me, it goes on on both sides.

**Ms Green:** What we're hoping is that with these amendments and other changes there will be fewer strikes. There's no question that there are a lot of passions involved when people are on strike, and a lot of anger in people who just don't understand that there's a strike or feel they shouldn't be on strike or feel that because they voted against it they shouldn't have to be on strike. There are a lot of people who don't really understand the whole democratic process that leads up to a strike vote.

But I don't think those particular concerns are before us, with all respect. I think the concerns that are before us are how to reduce the number of strikes; how to make those first-contract strikes, which are so ridiculously common in this province, a thing of the past so that people can form a union, get their first contract and then develop a relationship with the employer so they're not in this immediate war to the death, with antagonisms that are so hard to overcome afterwards. We're much more interested in reducing those tensions and reducing those strikes than we are in trying to figure out how we can keep people from twisting each other's arms once everybody's passions are up, with their blood pressure up past the healthy limit.

**Mrs Witmer:** I find it interesting that you say you believe this is going to promote harmonious, productive relations and improve the effectiveness of the dispute mechanisms, while at the same time what you have done is come here before us and beat the other side on the head. How are we ever going to have a harmonious, cooperative relationship if we have both sides behaving in that way? How is this bill going to achieve that?

**Ms Green:** I don't think we've beaten anyone on the head. I believe what we're doing is bringing forward examples that you may not have heard from other people. I don't say this proudly, that women are harassed and threatened on the job, and I'm not making it up. I have lots of personal experience in this. I'm not saying this to antagonize any small business. Most businesses will agree to a voluntary certification, and you don't have these things going on. We're talking about where there is a resistant employer. Maybe it's only 10%, maybe it's 15%, maybe it's 30%; I don't know what percentage of employers are really resistant to their employees acting on their right to association.

But I'm not here to bash employers. I'm just saying there are many cases where women are threatened and intimidated, and not just women, and that what we're looking for is a way that takes that all out of the picture and says, "You have a right to association; here's how you exercise it," and let's get on with the business of producing our service and producing our goods. That's our point.

**Mrs Margaret Marland (Mississauga South):** Ms Green, I'm just joining this committee for the first time during these hearings. Unfortunately, everybody wants to serve on this committee so our opportunities to be here are

limited, which I regret because I wanted the opportunity to hear both sides of Bill 40 in this province.

You haven't answered the question posed by the Labour critic for our party, because in answer to her question about this phone call she got, which is a real example for her in her role—and isn't it interesting that our party has a woman as Labour critic?—your response was, "Well, those aren't the issues we're concerned with," and then you went on with your answer.

Well, we are concerned about the people who contact us, and I guess it's an irony tonight that we're both sitting here as women. I think earlier in the day Ms Cunningham was sitting here for our party. We only have three women in our caucus, and it's interesting that we all will have sat on this committee today.

What's that famous example of the postal workers with CUPW where the president wrote that disgusting letter to those two females who were grossly intimidated by the union? We are concerned about women in the workforce in this province, believe you me, but when we hear about the kinds of things that go on today without this bill in place, we really are worried about the jeopardy for the future of women in the workforce in this province.

1900

I want to ask you how you feel about the way there could be demanded of women, in the case of an organizing drive for unionization, where women would have to give their names and addresses. How do you feel about the security of women who have to give their home addresses?

You say in your presentation here, "There is no shortage of cases we know of where employees involved in the drive were demoted—even discharged without cause." If you have evidence of that taking place, today's labour laws in this province protect workers from—

**Ms Green:** They're reinstated nine months later.

**Mrs Marland:** The point is that if they are reinstated, then they're going to be reinstated with their back pay.

**Ms Green:** I'm sorry.

**Mrs Marland:** Well, the labour—

**Ms Green:** It's just not the case.

**Mrs Marland:** If it isn't, then effectively whoever's acting on their behalf in enforcing the labour laws that exist today—anyway, could you answer the question about how you feel as a woman, and maybe could you both tell me what it is that you do? Are you both members of a union?

**Ms Maher:** I don't know whether that makes any difference. No, I am not. I have been at several points involved in union organizing and have been a member of the union. At this point I am not.

**Mrs Marland:** And are you, Miss Green?

**Ms Green:** At this point I am not. I was recently a member of a union and I've worked for several unions.

**Mrs Marland:** Okay. It's just that I don't know whether you're, you know—

**Ms Green:** I've been involved in union organizing drives many times.

**Mrs Marland:** Yes, okay, so how do you feel about the kind of pressure that can be put on women from—

**Ms Green:** I think the question particularly—oh. Sorry. Do you want to finish?

**Mrs Witmer:** You're talking about the Daryl Bean incident.

**Mrs Marland:** Yes. How did you feel about that incident, the Daryl Bean incident?

**Ms Maher:** I'm not sure what incident you're referring to. On the question about lists, which I thought was what you were leading to, I guess what we find quite problematic is that employers have access to those lists, and in my personal experience it's been the employer I've had a phone call from, saying, "Do you really want to upset the apple cart here?" The risks of harassment and so on from the employer are probably as high as or higher than from other people who are organizing.

But these provisions don't provide for lists to be given to organizers or to the people who are organizing the union in the first place, so I'm quite at a loss to figure out where we're at at this point.

**Mrs Marland:** No, but you and I both know how it works.

**Ms Green:** How it works is that you try to get a list so that you can contact people. Since you can't contact them on the job, you try to contact them after work, so you go through one person and you say, "Do you have a friend?" and then you try to find that person and you say, "Will you come to the doughnut shop at 11 o'clock?"

**Mrs Marland:** That's a point I'm making, and you're admitting that you do have a tactic for getting their address.

**Ms Green:** It's very ineffective, and that's why we asked for access to lists to be turned over as soon as the drive was declared. We didn't win that. We're not even making a presentation about that today. That would be much more effective. A short organizing drive is a good organizing drive. A non-strike is much better than a strike. We're not looking to up the friction; we're looking to reduce friction and get on with the work in this province.

**Mrs Marland:** Are you concerned about the impact—the group you're addressing in your brief is people who have, I would suggest, the most difficulty getting employment in Ontario today. Would you agree?

**Ms Green:** No. They don't have any trouble getting minimum wage work.

**Mrs Marland:** I'm talking about decent employment at a worthwhile wage. Would you agree?

**Ms Green:** Definitely agree.

**Ms Maher:** Yes.

**Mrs Marland:** Can you tell me how Bill 40's going to improve their job opportunities?

**Ms Green:** What we're hoping is that through collective action, even workers in low-paid wage ghettos will have an opportunity to collectively work to improve their working conditions.

**The Chair:** Ms Murdock, please.



**Ms Murdock:** Thank you very much, Mr Chair. I'm glad to see you're giving us some time tonight.

**The Chair:** Any time, Ms Murdock.

**Ms Murdock:** Just to follow sort of along the same line, except I don't want to get deeper in the mire here, I know Mrs Witmer was talking about a member of a union after they've been certified and a strike is called, but I want to get back to what Mr McGuinty was talking about in terms of the organizing drive and the information exchange you talked about.

Part of the presentations we've been hearing is that leading into an organizing drive, which eventually goes into a first contract, as we know, the information the members are getting from the union organizer, the outside organizer, is insufficient, and hence the question towards the notice, basically, is where that came from.

What kind of information, depending on whichever union you're representing, of course, do you provide to the worker when you're trying to explain why the union would be good for her or him or whatever the situation is? What kind of information do you provide?

**Ms Maher:** I think, basically, the information is what your rights and privileges are as a result of organizing. The main reason for organizing, at least in my experience—and, as I said, this has been in the voluntary sector, in social service, and it has been primarily with the public sector union—has been to get a bit of respect at the workplace. Generally, the kind of women with whom I've been involved are women who are relatively literate and so can read and write. What they want to know is where these lines come, in terms of what counts as intimidation and what does not. I'm not quite sure—

**Ms Murdock:** Membership dues and that kind of thing.

**Ms Green:** First of all, you don't make any promises, because you don't know what they're going to be able to get from their employer. You tell them what the policy of your union is in terms of when they begin to collect dues—normally after certification—and what percentage or what dollar amount those dues are at. If they would like to know about the structure of the union, you tell them how things work in that union. You tell them what their rights are and you find out from them what their issues are. You say, "You will be able to take these issues to the bargaining table with your employer."

There normally aren't a lot of promises made or information given about specific services. You say: "This union has a good educational program. There will be courses that you'll be able to take." You tell them about the union. A lot of times they're shopping around for a union.

In these workplaces that we are now talking about, there's no shopping around. You are shopping around for a union that will organize this group.

**Ms Murdock:** You're not soliciting, then?

**Ms Green:** No. Usually there have to be four calls to a union that say: "Please, this group has only 25 people," or eight people. "Would you come in and help them organize?" And the union says: "Well, we're really busy. We

only have two organizers." But they really are ready to organize; they really want to organize.

**The Chair:** Sorry to interrupt, but we have gone beyond the time. It's obviously been a very lively, engaging and valuable dialogue. I appreciate that. I express my gratitude and that of the committee to you, Ms Green and to you, Ms Maher, for appearing here on behalf of Women for Labour Law Reform. You've made a valuable contribution to this process. I trust you'll be keeping in touch.

#### GUELPH AND DISTRICT LABOUR COUNCIL

**The Chair:** The next participant is Guelph and District Labour Council. Would those people will come forward and have a seat, and tell us your names and titles, if any.

**Interjection:** We've got a videotape but we don't have a video player.

**The Chair:** You brought the videotape. If I might inquire, is the Employment Standards Work Group here?

**Interjection:** Not yet.

**The Chair:** Please go ahead with your comments. Your written material is being distributed.

**Mr Terry O'Connor:** We're going to leave the tape with you. You can view it at your leisure. It's a short one.

On behalf of the nearly 10,000 workers whom the Guelph and District Labour Council represents, I would like to take this opportunity to thank this committee for the chance to present our views on the issue of labour law reform.

My name is Terry O'Connor, president of the Guelph and District Labour Council and a member of the Communications and Electrical Workers of Canada. Joining me this evening are Brother Dave Fairfull, first vice-president of the labour council and a member of the Canadian Auto Workers Union, and Brother Larry Leisti, treasurer of the Guelph and District Labour Council and a member of the Amalgamated Clothing and Textile Workers Union.

The purpose of the video that you will view at your leisure is to show the present concepts of the bargaining process and why we feel there is a need for change to the current Ontario Labour Relations Act in order that both parties, labour and management, operate from a level playing field to improve cooperation and reduce confrontation.

We don't believe the proposed changes will shift the balance of power towards the unions, nor do we believe the changes will drive healthy investment out of Ontario, as the business community would have us believe. Remember, business was wrong about Bill 208, the health and safety amendments, Bill 162, the Workers' Compensation Act, and the free trade agreement, so why would Ontarians believe what they are saying now about Bill 40?

When sitting down to write this brief, I wrestled with how I wanted to present my beliefs and the beliefs of the rest of the membership of the labour council. I'm sure by now the members of this committee, over the past four weeks, have heard all the arguments for and against the proposed reforms. Labour has consistently come out in favour of the reforms, and we, the labour council, concur

with the rest of our sisters and brothers in the labour movement that these reforms will be good for Ontarians.

1910

The best way in which I can express my feelings about labour law reform is to draw on some of my own personal experiences that I have encountered over the past 16 years that I have been a union member. The two issues which I feel are important in the reforms and the two which I will be speaking about are the issue of joining a union and the issue of picket line violence and the use of scabs during a legal strike.

As I mentioned in the introduction of this brief, I am a member of the Communication and Electrical Workers of Canada. I have been a member of my union since 1976. The decision to join my union was one I did not jump into without thought or investigation. I thoroughly discussed joining with fellow coworkers and friends who were members of other unions. When I signed my union card I knew full well what I was joining and why I was joining. I did not require a cooling-off period to rethink my decision or to reflect on its implications. When I put my name on that membership card, I was finished thinking my decision out and was committed to the fact of becoming a member of CWC.

As with the rest of the proposed reforms, there is a reason for wanting the current act changed. In the case of joining a union, the reforms are intended to create a situation where, once a worker has made the decision to join a union, that individual will be able to do so in an atmosphere free of intimidation and threats, based on as much information as is available from both sides of this issue.

These reforms will give the organizers a more equal opportunity to present all the facts and information that should be afforded an individual before she or he makes such an important decision as joining a union.

As I reflect back on my card-signing, I recall having to sign my membership card behind a garbage dumpster in a parking lot adjacent to my place of employment. No one should have to feel that he is doing something wrong or feel intimidated about signing a union card due to anti-union campaigns or firings due to union activities.

The anti-scab law: I have personally been involved in two legal strikes, one in 1979 which lasted seven weeks and one in 1988 which lasted four months. I have also been on the picket line with steelworkers, auto workers and newspaper employees, and I can feel safe in saying that the majority of, if not all, picket line violence is directly related to the number of scabs used during a legal strike situation. The answer is clear to me: Get rid of the scabs and you get rid of the violence.

Now you're probably going to say: "What about the employer? How can she or he run the business during a legal strike if she or he can't use replacement workers?" The employer will still be able to use management staff to do the work. This may also help in the collective bargaining process. If the employer is unable to use scabs in a strike situation, he or she may be inclined to put a little more effort into the bargaining process in order to hammer out a collective agreement.

I support and commend the provincial government for its initiatives in changing the OLRA to better reflect the workplace and the workforce of the 1990s.

At this time I would like to turn the proceedings over to Brother Dave Fairfull to continue on with the presentation.

**Mr Dave Fairfull:** I'll omit a little bit of the introduction, because it has already been covered by my brother Terry. I'd like to say that I am also the president of Local 1917. Our local represents five workplaces, four in Guelph and one in Fergus, with a total membership of about 600 workers.

I believe the only clear voice of working people is that of a union. The average worker would find it difficult to keep abreast of all the changes that take place in a modern workplace. Through a union there are many resources available.

It's interesting that the chamber of commerce, which is the business community's collective voice, the builders' association, the Automotive Parts Manufacturers' Association, the bar, the Law Society of Upper Canada, the medical profession, and the Roads and Transportation Association of Canada all belong to an organization that actively supports their goals. They also pay some sort of fees or dues for services they get. I am sure they only join these organizations for one reason: They give a benefit. So the question is, why is it okay for the professional people to have a union and so difficult for working men and women who want to join a union?

The proposed amendments to the Labour Relations Act represent progress to the working people of this province. The present act takes away rights by allowing petitions, forcing workers to argue over what their true wishes are and in what circumstances the petition was signed, or whether they have paid their \$1 or not. This all causes delays in workers' attempts to be organized, sometimes lengthy. This is also a needless expense to the government.

In the plant I work in, from the time we made application for certification to the time we were certified it took almost eight months. The relationship between management and employees was very strained over this time. I am sure I wasn't the only worker thinking about quitting his job. I think many workers feel overwhelming powerlessness to change things, and this feeling is the exact opposite to what democracy should be.

In early July of this year, a travelling show came to Guelph. It was called Community Talks, of the federal government's prosperity secretariat. The secretariat's job was to ask Canadians how to restructure the economy to be more competitive in the global marketplace. The participants were unanimous in the desire for business, labour and governments to work together in order to ensure Canada's international competitiveness and prosperity. Business, they said, should take steps to involve labour representatives in the management of individual companies.

I would to share with this committee a letter I found published in both the Guelph papers. It was written by a Mr Bill Hulet of Guelph, and this is how the letter goes:

"Before I get on my soapbox, let me share some of my work history. I have worked as a janitor for three contracting firms at three locations: Norm Boyd Janitorial hired me to clean city hall, Doug Tyler for Conestoga College,



and Consolidated Building Maintenance hired me for the Guelph Eaton's store.

"As memory serves me, Norm Boyd paid me \$4 an hour, Doug Tyler something over \$5, and Consolidated \$6. This was several years ago, but even then I was a member of the working poor. There was no paid vacation—it was mandatory to take two weeks unpaid for Consolidated—no sick days, no pension, no nothing.

"At city hall I had to sometimes carry an extremely heavy floor polisher up and down the stairs because was no elevator in the building. It's a wonder no one damaged their back doing it. When the member of the Eaton family toured our store and said we had 'the cleanest store in Canada,' the store manager shook my hand—and our hours were cut the next week. At Conestoga, women made a dollar less an hour than the men, for work of exactly the same effort.

"Because of our disgusting labour laws it is impossible to unionize small contracting companies, which is why more and more businesses are opting for contracting out. I now work in a unionized shop, the University of Guelph, and as a result make a decent living. Our late but far from lamented president once made a statement to the press that he favoured contracting out as many university functions as possible.

"I hope the above makes clear that there is a clear need for labour unions and the labour movement is under attack. The latest evidence of this is the move by the Guelph Chamber of Commerce to try and force our elected government into backing down on its long-overdue reform of labour laws.

"My questions to the members of the chamber of commerce are, how much do you pay your employees? How safe are their working conditions?" and so on.

His last line says, "It's not just labour legislation. It's people's lives."

In the 1880s, business was hostile to the laws against child labour, and recently has opposed the health and safety regulations. They have threatened that widespread closures would result. They have not happened.

I must thank this NDP government for the foresight and for the commitment you have shown to go through these consultations. As Mr Hulet said: "It's not just labour legislation. It's people's lives."

The act has not been substantially reformed for over 15 years. It needs to be brought up to date to more accurately reflect the workforce and workplace. As it is now written, it reflects the needs of the primarily male workforce employed in the large manufacturing plants. It contains many legal and practical obstacles to much of the present workforce, women and part-time workers. Parts of the act promote antagonistic relationships that make bargaining the first few agreements difficult.

I would like to now introduce Larry Leisti.

1920

**Mr Larry Leisti:** My name is Larry Leisti. I'm employed as a millwright at the Fibreglas Canada Inc glass plant in Guelph. After my probation period was up in 1984, I became member of the Amalgamated Clothing and

Textile Workers Union, Local 1305. However, it was not until 1989 that I became active within that union. At that time I became the treasurer by acclamation; nobody else wanted the job. Since that time, my involvement within the labour movement has continually expanded.

The majority of the changes in Bill 40 will not affect my working relationship with my current employer, so I do not support these reforms simply for my own benefit. Instead, I would like to illustrate what those changes have done for 20 employees who have gone through the organizing process and are currently awaiting their first collective agreement.

In the fall of 1989, a number of employees decided they needed to become organized, so they contacted the Southern Ontario Newspaper Guild, and the organizing drive out of the editorial staff at the Guelph Daily Mercury began. After a few initial meetings, an organizing plan was set up, and on January 22, 1990, the first union card was signed. My spouse, Eva, was approached to sign a union card on January 26, 1990, and did so without hesitation. Within the first week, 13 union cards were signed from a targeted 25 employees. It was quite apparent that others felt there was a need to organize.

On February 23, 1990, the application for union certification was received by the labour board. Sixteen union cards had been signed at that time. By March 12, 1990, the labour board certified SONG as the bargaining agent for a group of employees from the Daily Mercury, but it was dependent upon the resolution of the composition of the bargaining unit. A labour relations officer was appointed to assist in that determination. After a lengthy investigation, which included visiting the Daily Mercury and holding hearings in Toronto, a hearing was scheduled before the board on September 5, 1991.

Just prior to that hearing, the union and management resolved all matters in the dispute. Imagine this: waiting over 18 months to resolve whether five employees should be included in the bargaining unit and whether one other should belong in a separate bargaining unit for part-timers. The final consensus was to exclude two of the workers and have a separate bargaining unit for part-time.

This company also utilized other attempts to scare off the union. When the application for union certification was filed, the union also filed a section 89 charge against the employer for the refusal to pay out bonus moneys which had accrued in the previous year. It had been a form of revenue-sharing which employees had been involved in, but suddenly it was dropped, and management declared that those employees who were joining the union would not receive any moneys owed. Again, just prior to the hearing on May 9, 1990, the employer admitted liability and agreed to pay all outstanding moneys. The union still had to bear the costs of all the expenses incurred.

On June 1, 1990, another section 89 complaint was laid against the Daily Mercury, this time for failure to pay scheduled wage increases. During the second hearing date, the company again acknowledged liability and promised to pay the retroactive increases. Approximately 26 section 89 complaints were laid against the employer; however, only two were brought before the board, due to the considerable

expenses involved. The resolution of those other changes has not yet been determined and cannot be announced because of an agreement on a publication ban which came about through the resolution of allowing first-contract arbitration.

Following my presentation, I give meeting dates. On July 26, 1990, a notice was given to bargain, and it was sent to the *Daily Mercury*. September 21, the first meeting of negotiations was held. The union presented the company with an initial proposal package; the company indicated it would not be bringing forward any proposals. They changed that slightly, later on.

In a full year of bargaining, from September 1990 to September 1991, very little progress was made. In fact, the company would only agree to look at the first eight articles during the entire year of bargaining. The company would not agree to meet on consecutive days or to meet any earlier than 4:30 pm each time. Most of these bargaining sessions ran until 1 or 2 am in the morning, and these were working days. The union members were expected to be at work the next morning at 7 o'clock sharp. Management representatives, however, were allowed to show up one to two hours late, and their normal day started at 9 o'clock in the morning.

It was only after the first meeting with the conciliator, in September 1991, that the union was allowed to present articles 9 through 25.

In the final days of bargaining, many issues were removed from the bargaining table. With the strike deadline having been set at November 7, between November 5 and 9 the union dropped 40 of its proposals in an effort to avoid the strike. The company responded to this effort by stalling until two days after the strike deadline to present the union with its response to wages. The company response came at approximately 2 o'clock in the morning on November 10. At this point, having seen what can only be described as an insulting wage proposal, the union decided that enough was enough, and the strike was called.

The first few weeks of the strike were basically uneventful and cold. The union members knew that scabs were being used, but they were never seen, because in the newspaper industry scabs only need sit in a hotel room, which is paid for by the company, and submit their stories by modem from portable computers. About two months into the strike, when the weather turned bitter cold, the company representatives began taunting the strikers about how tame the picket line was. Within a few days, those same scabs who were once reporting by modem from hotel rooms were suddenly arriving at the *Mercury* office and attempting to cross the picket line. The violence began. Video cameras suddenly appeared in the *Mercury* windows. Police officers were being summoned on a regular basis and pickets were being hauled off into police cars.

I walked the picket line with my spouse every chance I had. This was usually on a Saturday morning, when the picket line would be set up at 1 o'clock in the morning in subzero weather, and the shift would run until 8 o'clock. I walked that line with the various journalists and watched as they tried to hold on to their dignity and their professionalism. I walked with men over 50, 40-year-old women

with aching bones, young men full of energy, single mothers worrying about their children at home. None of these people had ever been involved in a union before. None of them had ever walked a picket line before. Yet this handful of people was willing to put their lives on hold during the coldest months of the year, in the middle of a recession, to risk their health, their families, police action and their jobs.

On April 3, 1992, the labour board granted first-contract arbitration. The 20 members of the Southern Ontario Newspaper Guild returned to work over a three-day period. The then unit chairperson, who before the strike held a fairly prominent position in the newsroom as a reporter and columnist, was suddenly being told that he was now a general reporter or, as some would say, an ambulance chaser. This 40-year-old man, with a family to support, with over 10 years of service to the *Mercury*, who had enjoyed a stable position, because of increasing health problems found himself forced to quit. He terminated his employment only three weeks after the strike. My spouse, who was then vice-chair of the unit, then became chairperson. Eva worked at the *Mercury* for three and a half years as a part-time darkroom technician. She was the only darkroom technician at the *Mercury* and earned less than \$9,000 a year. One month after becoming chairperson, Eva was permanently laid off for economic reasons. A complaint has been made before the labour board, and that was put through in June of this year. We are still waiting for a scheduled date for a hearing to be heard.

In the meantime, the remaining union members are still awaiting a first contract, while the company is doing everything in its power to punish those who had the nerve, or the guts, to stand up for their rights and to go out on strike for five months. For people such as these, the Ontario Labour Relations Act needs to be reformed, and now is the proper time.

**The Chair:** Thank you, sir. Ms Witmer, briefly.

**Mrs Witmer:** We'll pass. We've heard the presentation and we thank you for it.

**The Chair:** Mr Fletcher, the member for Guelph.

**Mr Derek Fletcher (Guelph):** Thank you, Mr Chair, and it's a pleasure to be here.

I was just wondering about the bit in here where you said you had a video which was produced through the facilities of Maclean Hunter Channel 8 on collective bargaining. There are a lot of concepts and misconceptions about collective bargaining. Some people say that the union gets a strike vote and then they go to bargain and, bang, you have no choice no matter what happens. Other people will come forward—in fact, the Guelph Chamber of Commerce was here before you and made a presentation saying that if this law goes through, unions are going to rule the land. Is collective bargaining that way? How do you perceive the collective bargaining process?

**Mr O'Connor:** Maybe once the committee sees our commercial—you've already seen it—I think it tells the message. It takes cooperation through both parties in order to achieve a collective agreement that is fair to both parties, and I think that's what these reforms will accomplish.



1930

**Mr Fletcher:** As far as the Guelph Mercury strike is concerned, I know—I was on the line a few times myself—there was violence on the line. The police were being used quite frequently at taxpayers' expense. Do you see these changes alleviating that problem, where we have the picket line violence that does go on? Not to say that it's always happening, but in this circumstance with the Mercury, it did happen. Why, and do you see this law changing it?

**Mr Leisti:** To begin with, if this law was in effect, the strike would have lasted, at the most, only 30 days. After four months on the line, when it's cold, when you're getting tired of being pushed around by the police, because they come down quite frequently when they're called—when you call them, they never show up if something happens to you. I personally got knocked down twice on the line. It's just not something you want to put up with for a long time. The 30-day limit—

**Mr Fletcher:** Knocked down by a vehicle?

**Mr Leisti:** No, police officers.

**Mr Fletcher:** By police officers.

**Mr Leisti:** Yes.

**The Chair:** Mr Hayes, did you have a short one?

**Mr Hayes:** Yes, very short, Mr Chair. It's quite amazing that we still have people who want to lead us to believe that these types of things, harassment and firings and violence and things, are not happening now in the 1990s, and that it's not necessary to put this legislation in.

However, there are those who are always talking about having the secret ballot and saying we should come up with a system that will make sure the workers are informed, and that should be done with unions and also with management, their employers. It's quite obvious that the workers want to get organized because of the poor benefits or no benefits, and poor wages and working conditions. I ask the question, if people are not happy with the employer and say, "Hey, we need a union to help us to get some decent wages," for example, how do you feel the corporation or the employer would be able to inform the workers, when it had the chance to do it before?

**Mr O'Connor:** You mean information about—

**Mr Hayes:** Information about belonging to a union. I think what's happening here is that there are people saying, "We have to inform the workers about what is involved in the labour movement." I know that you know what—

**Mr O'Connor:** I think most of the employers carry out anti-union campaigns in order not to have the union in. There's a saying I've used on many occasions and it goes like this: "You show me a company with a union and I'll show you a company with bad management." That's very true. In a lot of cases management is so strong in keeping the union out that it will go to almost any lengths to do that. I think most companies will use anti-union campaigns and firing people who are involved in those union activities in order to send a clear message to the rest of the employees.

**The Chair:** A rather hirsute Mr Hope is going to ask a very brief question.

**Mr Hope:** A point of clarification: You were making reference, to the last presentation there, to the first eight articles. Could you explain what the first articles of the collective agreement were?

**Mr Leisti:** Generally, you start off with recognition of the union. They had gotten up, I believe, just past the grievance process. By the way, the grievance process is well defined within the Labour Relations Act. It took these people six months to convince the company, "Yes, we have to have this; it says so in the law," and the company—"Well, maybe not."

**The Chair:** Mr Offer, Mr Philip, Mr McGuinty.

**Mr Phillips:** Actually, it's me, Mr Phillips.

I appreciate the presentation. As I kind of look down the road, the number one issue people talk to me about is jobs right now, and particularly plant closures. As I look at the last, I guess, two years or so and right now, plants are closing at a record rate. Plant closures, the first seven months of 1992, are 30% ahead of what they were a year ago. They're about 45% ahead of what they were two years ago. I think 70% of those jobs that are being lost are union jobs—heavily CAW, I might add, and steel. It's a tragedy.

I guess my question to the labour council is just this: I know you think the business community's bluffing on this stuff, although I can't find one single business person who doesn't tell me privately that this is seriously going to damage the economy of Ontario. But I gather the labour community thinks it's just bluffing on this, and the government members think it's bluffing. I think you're wrong, and I'll tell you that two years from now you'll find out you were wrong that they were bluffing on it.

**Mr Hayes:** In 1985 we asked for it.

**Mr Hope:** Read your research.

**Mr Phillips:** What research? The government won't provide any research on the jobs. My question to the labour council is this—

Interjection.

**Mr Phillips:** That's nonsense, that little study that was done.

**Mr Huget:** On with your question, Gerry.

**Mr Phillips:** Yes. My question to the labour council is—I'm sure your members are desperate about jobs—what are the three or four things in this bill that you will be saying to your members are the things that are going to help create jobs for them?

**Mr O'Connor:** I don't know if there's anything in this that will create jobs. I think the government's doing other things to create jobs. What this is trying to do is create an atmosphere and workplace where you have cooperation between the workers and the employers whereby you're not always at loggerheads. What happens when you're at loggerheads? The talking stops, and I think we need to continue with the talking, with finding new ways to create jobs and to hold on to the jobs that we have now.

**Mr Phillips:** My concern, I guess, is that I see 70% of the job losses occurring in the unionized sector. What in this is going to create the cooperation that presumably didn't exist before in those unionized job environments that will stop the job loss?

**Mr O'Connor:** I think there are a lot of examples where unions have sat down with employers to make hard decisions, and I think if we get more and more unionized places out there, those types of discussions will continue to go on. I'm not sure where you're coming from, but I think—

**Mr Phillips:** I'm just saying, if it already looks like the job losses are 70% unionized, I would just like your feeling on how more unionization is going to slow that down. That's all.

**Mr Dave Fairfull:** I can't see where you're saying that it's 80%, for one thing.

**Mr Phillips:** It's straight out of the Ministry of Labour statistics that you get, I'm sure.

**Mr Fairfull:** Anyway, even if it is true—

**Mr Phillips:** That's what it is.

**Mr Fairfull:** I'll give you credit for that one then. The economic policies of our federal government have a lot to do with our job loss and I don't think it's just the unions that are doing this.

**Mr Phillips:** I didn't say it was the unions doing it. I'm saying—

**Mr Fairfull:** That's exactly what you're implying.

**Mr Phillips:** No, no. I'm saying what's in this bill that will slow it down, not that the unions are causing it. No, I'm not saying that at all. But what is in the bill that will help to eliminate or minimize what I think, at least for my constituents, is the number one problem right now?

**Mr Fairfull:** If you're going to get a job at, say, \$6 an hour, there would probably be a few of them or that would be the perfect scenario for everybody to move in and get \$6 an hour. I can't live on \$6 an hour. I bet you 90% of the people out there who are working can't live on \$6 an hour.

**Mr Phillips:** That's right.

**Mr Fairfull:** Do you want everybody on welfare? Where are you coming from?

**Mr Phillips:** I'm coming from the point of view that says that for your members presumably job protection is quite important. I'm trying to find out in the bill where you see what I assume is your number one issue with your members.

I go down every day, I look at plant closures and I'm trying to determine if this is going to be helpful or not. The business community says it's not going to be. They say this is going to exacerbate the problem. I'm just trying to get from you people why they're wrong.

**Mr Fairfull:** I think that most unions are realistic. Now maybe over the years they've gotten increases, but all they're doing is sharing the wealth. If the company is in dire straits, there's no way a union's going to push it to that wall. I've been in negotiations where companies have actually said, "Oh, we're crying." Probably you're familiar

with the auto workers' strike with Chrysler where it said, "A nickel's going to break us," and in the following year it made the highest profit ever.

It's going to be a work-together scenario and we're going to have to get together and work on this. We can't be fighting all the time because we're not going to get anywhere. I'm willing and I'm able to work together with the companies, and I'm sure that if the corporate decisions are made to pull out union companies, because they want to make more profits, to the southern states or Mexico, that's what will happen, but there's a lot of economic stuff involved in this.

1940

**The Chair:** We've got to move on. Ms Marland, you had something very brief?

**Ms Marland:** Just briefly on your last comment there. I don't know how you can believe that business and industry and commerce are going to be attracted to Ontario if unions are going to control the profits that those businesses and industries make. You just said that when you find out how much money they have, that's more or less where you start your negotiating.

But the point I wanted to raise, and I'm glad Mr Fletcher is still in the room, is that I think it's important that the question that was asked about violence on the picket line—in particular you mentioned that you had been knocked down by a police officer. I think, in fairness to all the police officers in this province—who, as far as I'm concerned, have one of the most difficult if not the most difficult job in this province, men and women alike—I would like to hear from you, when you talk about violence on the picket line, surely you're not suggesting that the violence on the picket line is started by the police officers, who are trying to protect everybody. My understanding is that violence on the picket line happens when a picket line exists and other unionized or non-unionized workers try to cross that picket line. Who starts the violence? Not the people who are trying to get into the plant or the place of employment; it's the people on the picket line who fight against the people who are trying to get in, and the police officers are called to protect everyone. I think for you to say you were pushed down twice by a police officer is—I don't think you can leave that statement hanging there.

**Mr Leisti:** I will agree that the police are put in a very awkward situation. They don't want to be there; we don't want to be there. There were often nights that two officers were sent and we would chat with them all night and there would be no problems. When they sent 12 or 14 officers, yes, then there would be problems, because once your back is up, you start pushing back.

The problems occurred when the trucks were coming out with the papers. Who benefits from this occurrence? The company is the only one that wins out on this. They are getting their papers out on time. They are not suffering at all. The workers on the picket line have to put up with the abuse, the drivers going through have to put up with the abuse and the police officers have to put up with the abuse. But the company is the only one that is scot-free, and it is the main cause of this disturbance.



**The Chair:** I want to say thank you to the Guelph and District Labour Council and the people appearing here on behalf of the membership: Terry O'Connor, Dave Fairfull and Larry Leisti. You've made a valuable contribution to this process and we are grateful to you for your interest and for your comments and the insights you've provided.

**Mr Fairfull:** Thank you very much.

**The Chair:** Thank you, people. Take care. Have a safe trip home.

#### EMPLOYMENT STANDARDS WORK GROUP

**The Chair:** The next participant is the Employment Standards Work Group, if the spokespeople for the Employment Standards Work Group will come forward, have a seat and proceed with your comments. Tell us your name and title, if you have a title, or if you want to tell us your title.

**Ms Gayle Lebas:** All right. I don't think there will be any problem with that. My name is Gayle Lebas. I'm a community worker. I work with non-unionized workers and I'm here tonight on behalf of the Employment Standards Work Group, as you know.

The work group is a coalition of community agencies and legal clinics concerned with the situation of non-unionized workers. Within our separate organizations, our main contact and our main involvement with such workers varies—

**Mrs Marland:** Do we have copies of this?

**Ms Lebas:** No. I'm sorry, these are my notes—from the provision of social and recreational services to advocacy, counselling, legal assistance and so forth. But whether or not our primary dealings with people are focused on their employment problems and difficulties, we've come together on this issue because it has an impact on all of those other issues and areas.

Those of us, for example, who work extensively on anti-racism, on women's issues or on immigrant settlement issues know that visible minority workers of both genders and recent immigrants of all colours are overrepresented in part-time, in short-term and in low-paying jobs with poor and often dangerous working conditions where workers are obliged to work in the city for below minimum wage or for long periods with no wage at all, and we can assure you that we see such workers every day.

We know our organizations will have to try to help them with housing problems, with health problems, with personal and family counselling and so on. We know that we can't really address the issues of racism or of sexism or of newcomer adaptation if we ignore what happens to people at work, so the Employment Standards Work Group advocates for change to employment legislation, to policies and procedures which affect how these laws are administered and enforced. We provide information on rights at work to workers and to community groups, and we support individuals and groups of workers on specific employment standards cases.

I'm here this evening on behalf of the worker to speak in support of Bill 40. As I've mentioned, the workers we see are not unionized. Such rights as they have are specified

under the Employment Standards Act. If I can take a moment to explain a few things about employment standards, I think it'll be easier perhaps for you to understand why we are in favour of changes which allow workers to exercise their democratic right to join a trade union if they wish to.

An important idea behind the Employment Standards Act is that individual workers and individual employers are somehow equal parties. This idea holds that the worker is free to contract with the employer for a job while the latter is free to contract for labour. If either side is dissatisfied, he or she has the freedom to terminate the contract with, obviously, some restrictions but not many. Perhaps this idea has some validity for executives, and it's true that we don't see a whole lot of executives in our agencies, but this idea has no basis in reality for the workers we see.

The people we see, who work for \$1 per hour or for 50 hours a week at straight time, don't do it because they like to, and in many cases, they don't do it because they or their employer are ignorant of the law concerning minimum wage or overtime. They do it because they need the job. Why don't they file a complaint? Because they need the job, because they fear their employer will fire them if they complain and it will take months before their reprisal case comes up under employment standards and months more before it is settled, and they may not win because their employer will never admit that he or she fired a worker for trying to exercise his or her rights under the Employment Standards Act. Even if they win, it's too long and it's too late and nobody else at that workplace is ever going to complain about anything.

Over 90% of complaints to the employment practices branch are filed by workers no longer employed by the company in question, and even when they have left, we know some workers will not file a complaint while they are looking for work because they are afraid that a prospective employer will phone their previous employer and be told that they're a troublemaker.

Our experience with employment standards is that workers are definitely not on an equal footing with employers, and while the business lobby opposed to Bill 40 expects and wishes workers, presumably, to act on an individual as opposed to a collective or unionized basis, employers continue to act in a concerted fashion in their own interests.

Some of us in the Employment Standards Work Group noted that the proposed amendment allowing access to employee lists for organizing purposes was dropped from Bill 40. Those of us who see live-in domestic workers couldn't help but wonder what these employers are doing to address the complete lack of privacy with which so many domestic workers must cope. We wondered when we would see these employers forcefully take up the campaign for minimal employment standards compliance by the business community.

The Employment Standards Work Group supports workers' rights to freely choose whether or not they wish to join together or to unionize in order to put forward their own point of view on workplace issues. It's amazing to us

that this proposal should occasion such heated debate in a democratic society.

I've said that the workers we see feel they can't complain about violations of the law without putting their jobs at risk. We think their fear is well based. For example, one of the members of the work group quite recently saw some workers who had been fired for discussing—among themselves, on a break, not on work time—whether they were receiving minimum wage; as it turns out, they weren't. Just as workers have got the message that complaining about employment standards or health and safety or pay equity can cost them their jobs, they've also got the message that it's pretty risky to talk union. As long as this situation exists, it is at best erroneous and at worst hypocritical to speak as if workers are free to join trade unions if they want to.

I'd like to share with you a comment which one worker made to me in a workshop on employment standards. He said: "I come from a country where there was no minimum wage and where I had no rights at work. Here there are laws and they sound very good, but they don't mean anything." There's a tremendous cynicism out there, and you should know that if you don't already.

On behalf of the Employment Standards Work Group, I urge you to pass these amendments and to strengthen them so that this law and the idea of freedom of association exists in reality and not just on paper. We look forward to results as well from a task force on broader-based bargaining. This is the only way to improve the situation of some workers, such as domestics, even if they will no longer be exempted from the provisions of the OLRA, as well as that of other workers we see in precarious employment, such as home workers—and I believe there were home workers before this committee—those in small workplaces and so forth.

We urge the government to take steps as well to ensure that the Employment Standards Act is enforced, and we look forward to a comprehensive report from the employment standards review unit on that legislation.

1950

**The Chair:** Thank you. Mr Hope, four minutes.

**Mr Hope:** Four minutes? That was an excellent presentation, and you want me to get what I need in four minutes? I'll try.

Your presentation is articulate on the legislation and the enforcement aspect. I've been hearing the Liberal Party talk about posting a notice that an organizing drive or a vote is coming, that that will make sure there's a balance of information and that no employee would be coerced into voting either for or against the union.

You've just illustrated that people have a hard enough time getting the laws that currently exist in this province enforced. How are they going to be enforced? I was just mentioning to my colleagues that maybe what we'll have to do is hire a person from the Ministry of Labour to live with that individual until the vote is taken to make sure no coercion is done to that individual, by not just one side but by either side.

There are basically two other areas I wanted to touch on. I'm sure you've also dealt with plant closures of non-unionized workplaces, which have no representation when it comes to plant closure. Mr Phillips keeps bringing up the issue, "Well, they're mostly CAW in unionized workplaces." He forgets to mention the aspect that most of them are American-based corporations that are taking advantage of the federal government's free trade policy—and its future policy dealing with the US-Mexico trade agreement; I'm sure we'll see more unless we can put in place a job protection program of financial accountability for plant closure.

The other area I think is very important to touch on is education, because what you are doing is advocating on their behalf to educate them. You made mention of people just talking about what minimum wage is and whether they were eligible for minimum wage.

I just wanted your views on those areas: plant closures of non-unionized workplaces and financial accountability to the community, and also dealing with the aspect of education. Maybe what we should be doing is looking at our education system and providing labour history so we're getting a balance. You talk about a balance. Let's not just teach them about the business community; let's teach them about labour history, how we got these social programs in place today, good pension programs and a number of other programs. I just want your viewpoint, because you represent, as a chief union representative, on behalf of those non-unionized workforces.

**Ms Lebans:** I should say first of all that we're very careful about using the word "representing." I'm not here to represent non-unionized workers—it would be better if they were able to represent themselves—but we do advocate on their behalf and we do listen to them and hear the problems they have.

In relation to plant closures, of course we do see workers whose plants have closed down, non-unionized workers. One of the situations that frustrates us tremendously and frustrates the workers in a way I can't even begin to describe to you is where their employer closes down, doesn't even declare bankruptcy and moves next door and opens up again. In some cases those are workers who fought a battle for wages that had not been paid to them by that employer. They went back again, in some cases, to the same employer. You might ask yourself, why would they go back? They've been so terribly treated the first time, why would they go back to this supposedly different entity that involves the same people? They go back because they don't have any choice. They work for the promise of a pay, because it's better than no promise at all.

That situation is shocking. We hear all the time in groups like the work group about "a world-class city." Well, it's a little bit different when you're cleaning the towers in that world-class city or when you're working in the kinds of plants that close down and treat workers in this way; for example, the Lark workers, who were owed a tremendous amount of money. Their case went to court, they won their case in court, but they've never seen a dollar yet of their termination or their severance pay. So that situation of non-unionized workers in plants does concern us



very much, and unfortunately, we see rather a lot of workers in that position.

In relation to education, certainly more needs to be done, but one of the things that's very frustrating, once again, is the situation that obtains where workers know what their rights are at work, for example under the Employment Standards Act, and they can't do anything about it. It's one thing not to know what they are, but you can imagine how workers feel, how they begin to question things here and how they begin to question the representation we make about what our society's about when they can't use that education to have their rights enforced without placing themselves at tremendous risk. Particularly in these days when the employment situation is so terrible in the province, workers can't take that risk.

**Mr Offer:** Thank you for your presentation. I detected two major areas which you were addressing. First were some of the deficiencies under the Employment Standards Act and what happens with respect to those in those problems.

But on Bill 40, I'm going to ask you to help me out on this, okay? You started off by saying, "The democratic right of employees to choose," and I agree with you. This bill is not about whether unions are good, bad or indifferent. We recognize that workers, men and women in the workforce, have the right to choose to be part of a union. I think the phrase you used was "democratic right to choose." I don't think there's anybody who disagrees with you.

The problem I have is that I don't see this bill, in many ways, helping. I don't see that this bill provides protections to employees to exercise the democratic right to choose, free from coercion and intimidation. I don't see in the bill where all employees in a workplace are given notice of their rights under the Labour Relations Act in whatever way is sensitive to the workplace.

I guess the question I have is a two-parter, and I don't think it will come as a surprise to you or to anybody who has followed the hearings. I don't understand why there is almost an abhorrence to providing workers in workplaces notice of their rights under the Labour Relations Act, notice that an organizing drive has commenced and notice that they are free and able to choose whether to join or not to join a union in a secret ballot vote, fully informed, free from coercion and intimidation—I believe that can happen—in a manner that really does embrace the truest principle of democracy. Why is that so unacceptable, if it is?

**Ms Lebas:** The response I'd like to make to your comments is that, as I think you would agree, there are processes which can, given that rights supposedly exist—the one you mentioned, the one I mentioned—allow these rights to be exercised, and processes which interfere with them being exercised.

I've told you, in relation to the Employment Standards Act, that I think it's the same thing as around unionization in many cases. Just as workers, for fear of losing their job, are afraid to exercise their rights to a minimum wage, for example, under the Employment Standards Act, so they are afraid to exercise their right to indicate whether they

support a trade union or not. They know that people are fired—and people are fired—for exercising that right.

**Mr Offer:** But it's secret. It's a free choice, with severe penalty to employer or organizer; it's the ability to cast your vote one way or the other. Honestly, I cannot see why there is such an aversion to allowing workers in this province to make that choice, with legislative penalties—and I believe that—to the employer. If they're guilty of intimidation or coercion: certification. But there should also be penalties to the organizer, and we've heard even this evening that there are some examples of that taking place. Give the workers protection, give the workers the right to make their choice freely, secretly and fully informed. I can't for the life of me understand why there's such an aversion to that.

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**The Chair:** Do you want to respond to that?

**Ms Lebas:** I would just like to say I'm not here tonight to represent trade unions, as you know. I'm here from our experience with non-unionized workers and what happens to them. I think what happens to them should also give us some indication of what happens to them because in their efforts to join a trade union, they're still non-unionized workers at that point and we know of the fear they have about talk about unions.

It is not that fear—I'm not saying it doesn't exist; I don't know—that is represented to me, for example, in workshops on employment standards. It's people's fear that they can be fired. If they start to talk with someone else about a union, could they be fired about that? Generally, because I'm not there to represent trade unions, we refer them to places where they can have those questions answered.

**Mrs Witmer:** Thank you very much, Gayle, for your presentation. I appreciate the sincere representation you've made on behalf of the group of employees you do represent. You mentioned, or I guess you questioned, why there was such controversy. I guess the reason for the controversy is that this government unfortunately introduced an agenda that was union-driven. From the time it was introduced back in March or April of last year, there has not been an opportunity for true consultation on the issue, and we're still dealing with that same union-driven agenda.

I think all of us agree that labour relations need to be reformed.

If the government had brought together labour, government and business and said, "What are the problems. How can we resolve them?" and attempted to do that through consensus and have a win-win, we wouldn't be faced with the very unfortunate situation we face today, where we have extreme polarization on both sides.

Although the government wants to promote harmony in the workplace, I'm afraid the process which it puts in place is going to lead to anything but harmony in the workplace. I think it's going to take years to eliminate the conflict that has been created. It's unfortunate, but that's the situation we find ourselves in.

Gayle, I know what you're speaking about. I know how difficult it is for immigrants. I've just recently met

with a group of people who are trying to gain access to trades and professions in this province. They are immigrants, they are doctors, they are tradespeople. No one in this province has listened to them. They cannot find employment. We seem to be closing the doors to those people. How do you think Bill 40 is going to help those individuals to gain employment?

**Ms Lebans:** There is a Task force on Access to Trades and Professions, and I would think it's the work of the task force to address that issue.

Given that many of those professionals are obliged right now to perform jobs other than the ones for which they were trained perhaps in their country of origin, I would think many of them would also support both enforcement of employment standards—because that's what many of them are under in those jobs right now—and also access to the freedom to choose a trade union, if they like, because unfortunately those are the jobs.

Perhaps those aren't the jobs they were trained for originally, but they're in those jobs now where these proposed amendments might be a benefit to them and the enforcement of the Employment Standards Act might be a benefit to them. So I would refer back to the task force, I guess.

**The Chair:** Thank you, Ms Lebans and the Employment Standards Work Group. You've provided a valuable insight for this committee and obviously you've captured the attention of all the committee members. I trust that your input will be useful to them when they come to consider this bill on a clause-by-clause basis. So thank you kindly. Take care.

#### PARKDALE COMMUNITY LEGAL SERVICES

**The Chair:** The next participant is Parkdale Community Legal Services. Please tell us your name and your title, if any.

**Ms Sheila Cuthbertson:** Good evening. My name is Sheila Cuthbertson. I'm a staff lawyer at Parkdale.

**The Chair:** And now tell us what you want to about Bill 40.

**Ms Cuthbertson:** As you may know, I have appeared before this committee on a prior occasion to assist the Coalition for Fair Wages and Working Conditions for Home Workers in its submissions, and I am pleased to be given another opportunity to talk to this committee on behalf of Parkdale Community and Legal Services.

As you may know, Parkdale is a legal aid clinic located in the Parkdale community, and serves the constituents of that community by providing free legal counsel and representation to low-income clientele that is eligible for our services and whose problem falls within the areas of law that we practise.

The division at Parkdale that I work in is called the workers' rights division. I co-lead that division and supervise five law students from Osgoode Hall Law School in that work. The workers' rights division represents non-unionized workers who live and/or work in our community. We represent workers in cases of workers' compensation, unemployment insurance, health and safety,

wrongful dismissal, sexual harassment and employment standards.

Buttressing all of our work is the perspective of human rights. We have a great deal of feeling for the anti-racist perspective which we bring to all of our work. The workers we represent generally do not speak English as their first language. They are recent immigrants, visible minorities of both genders, women. They are concentrated largely in low-income, low-paying, low-skilled workplaces such as small manufacturing companies and the cleaning and service industry.

Time and time again, Parkdale has represented these workers in cases where even the most basic employment rights are not being met: Workers are not being paid adequately according to the law; workers are fired arbitrarily and without sufficient termination pay or notice so that they can organize their lives, having been dismissed; workers are working huge amounts of overtime and not being paid for that time, and workers are being dismissed for complaining to their employers about any condition of their work that is in violation of the law.

Parkdale is pleased that the Ministry of Labour has taken it upon itself to propose amendments that will finally change a piece of legislation that is, frankly, out of step in both its procedures and application. Finally, recognition is being paid to the changing face of the workforce in Ontario. Women are entering the workforce in rising numbers. Part-time and casual work is on the increase. Home work has become the employer's new ideal: Transfer the capital costs of doing business to your employees. It is an important step that the Ministry of Labour is taking, a vital step, in promoting a piece of legislation that attempts to better reflect the reality of Ontario's workforce and workplaces.

Parkdale supports the objectives of the amendments in Bill 40, but our unique experience in dealing with unorganized workers gives us a particular view of some of the amendments which go into organizing drives. I've said it before here and I'll say it again, personally and on behalf of Parkdale, we do not perceive these amendments as somehow imposing compulsory unionization upon the unsuspecting workers of Ontario, but rather we perceive these amendments as providing a way in which employers who choose to organize may organize.

Turning to specific amendments that really concern the organizing of a trade union in a workplace, I will say Parkdale firmly believes that the process surrounding the adjudication of unfair labour practices has to be strengthened in the amendments.

The chances of a worker being fired or disciplined for attempting to start a union, for talking union in the workplace, is well documented. We believe the amendments should provide that an employer cannot dismiss or discipline an employee during an organizing drive without permission of the Ontario Labour Relations Board.

Short of that, we believe any process to adjudicate unfair labour practices when they go to disciplining or dismissing employees during an organizing drive has to be expedited so that a message is sent to employers and to workers. Employers will know that you can't do that, that



you can't block unionization in your workplace like that, and employees will know it is their right to complain and to start a union.

The use of replacement workers seems to be an extremely controversial subject among business and labour. In our view, the amendments will go some distance in reducing the rancour and hostility on picket lines where struck employers are using replacement workers. However, in our view, they do not go far enough. Under Bill 40, employers can move struck work to other locations as well as contract out the work.

Further, we are disappointed that the discussion paper was changed regarding the employees who can and cannot be used as replacement workers in that workplace. While it is true that these workers can refuse to perform the work, our experience with non-unionized workers is that if they complain or if they refuse, they will be fired, and therefore you set up an untenable situation for these workers.

They risk losing their jobs if they cross the picket line, but by crossing the picket line, you're forcing these workers to get into buses and cross lines that their coworkers have put up to try to attempt to get a union into their workplace. It is our view that if you pass an amendment that says no replacement workers, including non-bargaining-unit workers, that will relieve the pressure on the non-bargaining-unit employees in the workplace.

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The configuration of bargaining units has been again left up to the labour relations board, and Parkdale is concerned about that, because the board has a record of not being sensitive to the changing workforce and workplaces today. The amendments, while allowing consolidation of bargaining units, again, as I stated, leave the decision of the configuration up to the labour relations board.

The ministry has also proposed amendments which would create successor rights in addition to the sale-of-business or deemed sale-of-business provisions already in the act. Parkdale is in complete support of the spirit of these amendments.

Parkdale recently finished representing some 115 cleaning women, mostly Portuguese-speaking, who worked for a cleaning company in downtown Toronto and who lost their jobs as a result of a competitor cleaning company winning the contract. All of these workers were laid off. It took Parkdale some four years, a trip to Divisional Court and what seemed like endless negotiations with the company, which the court had found liable to pay severance pay, to finally effect a settlement. These women were laid off in 1987 and we distributed their severance pay in 1992.

We believe that the contracting-out provisions would enable more organizing to happen among those industries which are profoundly unorganized, such as cleaning and service sectors. However, we are concerned about the bargaining rights exemptions, such as the maintenance and production workers, in those provisions being exempted.

I think it is safe to say that those of us who represent non-unionized workers are excited about the proposed amendments to the Labour Relations Act. A modernizing

of an act that better reflects the reality of the workplaces and workforces can only be a good thing.

However, we do perceive some real weaknesses in the act in some of the provisions which go directly to organizing, to allowing people who choose to be in a union to try and organize a union in the workplace. As I've stated before here, the people I represent day in and day out are not organizing themselves, not necessarily because they don't want to be in unions but because the present law acts now as a barrier to organizing.

Finally, Parkdale urges the government to adhere to its timetable regarding the imposition of these amendments. Thank you for your time tonight.

**Mr McGuinty:** Thank you, Ms Cuthbertson, for your presentation. One of the concerns my party's been raising—I guess the opposition, to be fair, has been raising—for some time now during the course of these hearings is the issue of a free vote, a secret ballot, and as well the possibility that we could include as an amendment to Bill 40 a legislative requirement that the workers be advised of their rights.

Let's deal with the second one first, please. You're working in the workers' rights division?

**Ms Cuthbertson:** Yes.

**Mr McGuinty:** You advise workers of their rights day in and day out, and that is seen as not only acceptable in Ontario society today but as something that is good, in fact very good, for people to know and understand what their rights are. Dealing with a worker, why is it not a good thing to advise a worker of his or her rights arising out of an organizing drive?

**Ms Cuthbertson:** In response to that, I do all the time advise workers of their rights in the workplace, mostly under the Employment Standards Act and the other acts. My experience, though, is that I always deliver my advice with a huge caveat, which is: "These are your rights. If you attempt to enforce them, you will probably lose your job."

The cynicism that Gayle Lebars was talking about recently, and the people I talk to, is very true. Most of the people we represent at Parkdale with employment standards matters have left their jobs, and I have to tell them, when I speak to them in public speaking engagements, which I do all the time: "We have an act. It's got some enforcement powers in it, but if you complain, it's going to take me a long time to get you any compensation, and I certainly won't get your job back for you." It's a shame that's what has to happen.

**Mr McGuinty:** But under Bill 40 there will be an improvement in the sense that if an employer can be shown to have intimidated or cursed or done anything which is deemed to be contrary to the act, then there will automatic certification.

In response to something else you said as well, you tell your clients: "Look, these are your rights, but really they're not. Not only are they not enforceable, but in fact if you attempt to assert them in the workplace, you're going to suffer some adverse consequences."

**Ms Cuthbertson:** "You 'may' suffer some adverse consequences."

**Mr McGuinty:** "You may," okay. That's unacceptable to me, and we have to make an effort to put in place some kind of system which is going to ensure that those rights can be asserted—

**Ms Cuthbertson:** Absolutely.

**Mr McGuinty:** —without having any fear whatsoever of adverse consequences. You tell me: What can we put in place to ensure that within the context of this new system?

First of all, the problem is we can't rely on the Ms Cuthbertsons of the world to advise all workers of their rights. We can't rely on the organizers, and we cannot rely on the employers. So we're trying to put a system in place that will ensure that the state will assume, the province will assume some responsibility for this, for getting out the idea that, "You've got some rights here," at the end of the day so that the workers can vote, through a secret ballot. Can you not envision some possibility there? Is that not a worthy goal for us to strive for?

**Ms Cuthbertson:** Again, I can only speak for the workers that I represent in employment status matters, and I would love to have a system where some resources were thrown at expediting any kind of process where an employer would be taken to task for disciplining or dismissing an employee for complaining—a reprisal section, basically, that's enforced under the Employment Standards Act.

Similarly, we believe that no employer should discipline or dismiss an employee during an organizing drive without the Ontario Labour Relations Board saying that's okay. Short of that, any adjudicative process that brings the employer to task for doing that has to be expedited. We have to talk speed. The reaction of the government has to be swift. Right now it takes me three months to get an employment standards officer assigned to a case, and if an employee's lost a job as a result of a complaint, I'm never going to get that job back for that employee.

**Mr Phillips:** Just to follow up a little bit on that: At least two thirds of the employees in the province are non-unionized. I would ask you the question: Do we run a risk if we assume that the only way employees can get their rights is through collective bargaining? I don't buy that, and I find it unacceptable that that be the case. But if I were in the government's shoes, and it has a very strong pro-union bias and I understand that, the three-month delay is in the interests of union organization.

I guess my question is, if we keep heading down the path where we set legislation where the fair workplace is the unionized workplace and we don't have in place mechanisms to ensure that an equally fair workplace exists in a non-unionized workplace, aren't we sowing the seeds of a real problem in our society?

**Ms Cuthbertson:** Again, I can speak from my experience with the Employment Standards Act, and my experience has been that the more stable a workplace is, the more likely the workers are going to organize themselves in trade unions.

**Mr Phillips:** They more likely would.

**Ms Cuthbertson:** They will organize into trade unions.

**Mr Phillips:** The more stable the workplace.

**Ms Cuthbertson:** Absolutely. So if there was some enforcement given to the Employment Standards Act, there could be a likelihood of better and greater organizing, because employees who are frightened aren't going to do anything. It's something I've experienced in my position at Parkdale and other areas in my career.

I'm not quite sure what I can say to your question about, "Will it be good for society?" Parkdalers firmly believe that collective bargaining is a good thing for workers, but we also believe that there are a number of workers who will not be encompassed by this amendment package, and that's why we also urge the government to create a broad-based bargaining task force to look into other ways to organize these people into trade unions. To be completely frank with you, we think collective bargaining is a good exercise for workers, but we think the rights of those workers who are non-unionized should also be firmly upheld by the government.

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**Mrs Marland:** I'm finding this meeting this evening very interesting because I'm hearing the Liberal members laying claim to the request for secret ballots on this whole issue of organized drives for unions, and I'm looking at a press release here dated June 23 when Ms Witmer, the Labour critic for the Progressive Conservative Party, asked for a secret ballot. I think Ms Witmer is very flattered, I'm sure, and our caucus is flattered, because now we have support for something that we had certainly brought in.

**Mr Hope:** Oh, here comes the accord.

**Mrs Marland:** I think also it's important to place on the record that it was the Liberal Party that said this was the wrong bill at the wrong time, and we're the only party in this province that has said that should Bill 40 pass, our leader has said he will repeal it.

**The Chair:** You could say that my leader promised public auto insurance.

**Mrs Marland:** Well, Mr Chairman, I won't touch that because you're very capable of dealing with that yourself.

**Ms Murdock:** And he does.

**Mrs Marland:** Parkdale Community Legal Services is a legal aid clinic.

**Ms Cuthbertson:** That's right.

**Mrs Marland:** I'm familiar with legal aid clinics in general, and I work very closely with one in my riding which does excellent work. Could you tell me where Parkdale Community Legal Services receives its funding from?

**Ms Cuthbertson:** We get our funding from the Ontario legal aid plan, which is part of the Attorney General's office, I believe.

**Mrs Marland:** Which is really the province of Ontario.

**Ms Cuthbertson:** Yes.

**Mrs Marland:** Which is the taxpayers of the province.

**Ms Cuthbertson:** Yes.



**Mrs Marland:** I'm amazed that you would come before this committee tonight with such a narrow focus on this issue. I think your words were something like, "We're really excited about this bill, those of us who represent non-unionized workers." I'm amazed that since you're funded by the taxpayers of this province, who may have various opinions on this bill, that you can come with only one viewpoint, because I'm sure there would be times when it wouldn't be in the best interests of your clients to focus narrowly on Bill 40. How do you feel that you, in the scope of your responsibility to everyone when you're a publicly funded legal aid clinic, can come before a government legislative committee and say, "This is so exciting, this bill; I'm so enthusiastic about it"?

**Ms Cuthbertson:** I think my words were that those of us who represent non-unionized workers are excited about the prospect of amending an act which has needed amending for a long time, and we think a lot of work has to be done for those people we represent, who are non-unionized workers. I believe I have the right to address this committee as a person who represents hundreds of people who are non-unionized, low-income people who live in the Parkdale community. I'm not speaking for them; I can only speak anecdotally about each of them and what they say to me. I see the kind of work that they have to do, and I don't think any taxpayers in Ontario would want any of their workers or their family members to have to deal with the kind of lives that my clients deal with day in and day out.

I'm speaking to this committee as a person who represents non-unionized workers, and we are excited about the bill but not necessarily because it's going to impact on our clients that much. We think it's exciting that the government will be changing a bill that has had to be changed for years now to better reflect the changing workforce and workplaces.

**Mrs Marland:** So if it's not going to reflect on your clients, then you're here making a comment in the abstract in support of the bill.

**Ms Cuthbertson:** No, I don't think that's fair. I think that I'm making representations that I believe my clients would make. I can't speak for them. That's the problem with unorganized workers. They're not organized; they don't have spokespeople. That's why they're so vulnerable. I can only advocate on their behalf here tonight.

**Mrs Marland:** How do you feel about a statement which was quoted, actually in the Financial Post, on the 24th of October, 1991, and it says as follows: "Ontario Premier Bob Rae said yesterday that stronger labour unions will enhance the competitiveness and efficiency of business and vowed to press ahead with a controversial overhaul of the Ontario Labour Relations Act."

"We are going to have to convince people that when we have trade unions involved, when we have mutual respect, it will be better for the competitiveness of the economy," Rae told a United Steelworkers of America conference in Toronto."

How do you feel about that in terms of employment opportunities for the people who you are representing? You're a lawyer, I assume?

**Ms Cuthbertson:** Yes, I am.

**Mrs Marland:** You're obviously a very bright, capable young person and you're sincere about your commitment to your job, your profession and the opportunity that you have. How do you feel about a statement like that made by the Premier of this province in relation to creating employment opportunities for the people who you're concerned about?

**Ms Cuthbertson:** I'm not sure I'm equipped to deal with that question, unfortunately. I don't know anything about the quote, I don't know anything about the article and I would prefer to have something in context before I comment on it.

**The Chair:** Mr Hayes, unless you wanted Ms Marland to have some of your time.

**Mr Hayes:** No, I think she's done sufficient, thank you, Mr Chair.

**Mrs Marland:** Do I get the same times as the Liberals?

**The Chair:** If you were to get the same time as the Liberals, I would have cut you off three minutes ago, Ms Marland. Go ahead, Mr Hayes.

**Mr Hayes:** Thank you, Mr Chair. I'd actually like to help Ms Marland there on some past history because she comments about you being here today and taking the stand that you have, and I compliment you on that, but also when the government was discussing Bill 162, I think it's important for people to know that the previous Liberal government censored the workers' advisory and the employers' advisory not to come to the committee and discuss the bill. Who better would know than those people who work directly with compensation and things of that nature?

**Mrs Marland:** I sat on those hearings, Pat, and they came.

**Mr Hayes:** You had your turn, Ms Marland.

There's talk about the imbalance. Some people say the imbalance of power, this legislation is giving workers too much balance. I'd like to ask your opinion on that, and maybe give us some specific cases because we hear that there is abuse from the other side, from unions or organizers, but those people have never brought up any specific cases. Could you give us some specific cases where people have been harassed or fired or intimidated or coerced because they chose to or attempted to form a union or join a union?

**Ms Cuthbertson:** Parkdale, as I said, only represents non-unionized workers. We've had a number of incidents where the workers have come to us, again in the Employment Standards Act context, but they have complained about the working conditions in their plants, in their workplaces, and they have been summarily dismissed or they have been harassed as a result.

In terms of your question, I can only talk about hearsay. I don't have any knowledge personally, but I am well aware of stories like that.

**Mr Hayes:** Yes, okay. Thank you very much.

**Mr Wood:** Thank you for making an excellent presentation. Briefly on the workplaces and the workforce, I'm sure you're aware, in your presentation you've talked about it, how they've drastically changed over the last 15

or 20 years and where there are more women, minority groups in the servicing sector and retail sector and domestics and things of this kind. I just wanted to know if you wanted to comment, with Bill 40 being brought forward, if it will remove some of the barriers you feel as far as organizing and giving them the opportunity, if they so desire, to organize.

2030

**Ms Cuthbertson:** Yes, my experience at Parkdale has been that the workforce is ever-changing, in terms of its personnel and also in terms of the origins of the people involved, the gender of the people involved, and the kind of work these people are doing. Bill 40 in its present state—and I said in my submission that we hope some parts of it are strengthened through this process rather than kept—would facilitate the organizing into unions of these workers who are most vulnerable if they really want to organize into unions. And, as I stated, we think the replacement worker provisions are good.

**Mr Wood:** In your opinion, in the present situation without Bill 40, is there a fair balance between employer and employee at this time?

**Ms Cuthbertson:** In my opinion, no. I have had some experience with organizing drives in a past life, so to speak, and my experience has been that employees who attempt to organize are given a very rough ride by employers who do not want unions in their workplaces.

**Mr Ward:** The critics of Bill 40 in essence say, "Eliminate the bill completely, it's a bad bill," and suggest that the implementation of a secret ballot would solve all our problems.

When I put my rose-coloured glasses on and take a simplistic approach to this, it makes sense that an employer would welcome a union organizer into the workplace. They'd stand side by side. The trade union representative would express the benefits of a union. The employer would express the benefits of having the status quo, or a non-union shop. The employees would take both sides and vote by marking an X one way or the other.

When you take off the rose-coloured glasses and enter the real world, we hear mounting evidence of intimidation, of coercion by employers who are resistant to having their employees vote or agree to have a trade union represent them.

In your experience, do you think we can ever legislate out intimidation and coercion by employers who are resistant to having their employees collectively say, "We want a trade union to represent us"? Do you think we could ever legislate that out, eliminate it completely, in the real world?

**Ms Cuthbertson:** In my opinion, in the real world, probably not. It's a risk. First of all, there has to be some process by which the organizer is brought into the workplace, which means that someone in the workplace has contacted the organizer. In all likelihood, that person will be discovered. The likelihood of that person being discovered is quite good, and that person will be fired or dismissed or disciplined in some way. Our fear is that employers can also discipline and harass employees in many different ways and for many different reasons, and they don't neces-

sarily have to put the label of union organizing on it in order to harass them and discipline them. I think it would be very difficult to truly legislate out coercion and intimidation.

In terms of the amendments, as I said in my submission, if a person is dismissed or disciplined during an organizing drive, that shouldn't be able to happen without the permission of the Ontario Labour Relations Board. There should be a hearing set up about it.

**The Chair:** Thank you, Ms Cuthbertson. The committee wants to thank you for being here with us this evening and for sharing your views. You've made a valuable contribution to the process of this committee and we are grateful to you and of course to Parkdale Community Legal Services. We sincerely thank you. Take care.

**Mr Offer:** Mr Chair, being distributed now by the clerk is—

**The Chair:** Are you making a motion?

**Mr Offer:** Yes, I am, and that motion is now being distributed by the clerk.

**The Chair:** Mr Offer moves that this committee request the House leaders to amend the motion moved by Mr Cooke on July 14 detailing the dates and times of sittings for the purpose of clause-by-clause consideration of Bill 40.

Do you want to speak to that?

**Mr Offer:** Yes, if I may. After coming back from the hearings, I wanted to read the motion by Mr Cooke, with a view to seeing when amendments had to come in. I'll read from that:

"Further, that the committee be authorized to meet for clause-by-clause consideration of the bill following routine proceedings on the first eight sessional days of the fall meeting." That's what the motion says.

Then I took a look—and I beg the indulgence of the members of the committee, because to me this is a very important motion—at when it is anticipated the fall session commences, and that is going to be September 28. That would mean, according to my interpretation of the motion, that we would be deliberating clause-by-clause on this bill September 28, 29 and 30 and October 1, 5, 6, 7 and 8.

As members will know, I'm the Labour critic for my party and have been in this debate since day one. September 28 and 29, as well as the better part of the afternoon of October 6 and all of October 7, for myself are very sombre religious observance days, when I will not be able to be in attendance. We have a motion which does not allow any discretion save by, in my opinion, a request by this committee to amend that deliberation. I make that motion and ask for that request.

**The Chair:** Is there need for any further debate?

**Mrs Marland:** Mr Chairman, just to speak on behalf of our caucus, we are very sympathetic to the concern that has been raised by Mr Offer. In fact, we in our caucus are concerned to the degree that we question the House resuming on Monday, September 28. It's Rosh Hashana, and we felt that was an inappropriate day for this House to sit in Ontario.

Because I'm not the House leader for our party, I'm not sure where that negotiation is going. I know the House leaders have had one meeting already, and I'm optimistic



that the concern that is raised by Mr Offer—justifiably so, as he said on his own behalf, as critic for the Liberal Party on labour law. But I think that for everyone we should be looking for the House leaders to amend even the sitting date on the 28th.

I'm wondering how the wording of this motion before us really addresses the concern you have raised, Mr Offer. You're asking them to amend the motion detailing the dates and times of the sittings for the purpose of clause-by-clause consideration, but you have verbally outlined what the amendment would be. Are you suggesting that this motion is sufficient direction to the House leaders?

**The Chair:** I would think Mr Offer has been very generous and charitable in his wording of this motion and has been cautious to avoid embarrassing anybody. I thought he was being very gracious in the wording of the motion.

**Mrs Marland:** Just asking them to amend it, and it will be brought to their attention why it's necessary.

**The Chair:** One would think a wink would be as good as a nod.

**Mrs Marland:** Well, I don't believe in winking and nodding with any—

**The Chair:** We are talking about House leaders, aren't we?

**Mrs Marland:** Yes, we are, and we had so much winking and nodding, Mr Chairman, that this House sat for four additional weeks this summer. If the mover of the motion is happy with the wording, fine, but I would have preferred to see more specific direction given to the House leaders.

**The Chair:** Ms Murdock, you'll speak briefly to this?

**Ms Murdock:** Yes, very briefly. On the basis Mr Offer has stated, I can certainly understand, but I'd still like to check with my minister, if that is satisfactory. Can we table this till tomorrow, Mr Offer?

**Mrs Marland:** Mr Chairman, may I respond to Ms Murdock?

**The Chair:** You sure can.

**Mrs Marland:** You're the parliamentary assistant, aren't you?

**Ms Murdock:** Yes.

**Mrs Marland:** I hope the proposed changes to labour law in this province aren't going to supersede the very straightforward request this motion makes. I can't imagine that you would have to speak to your minister to ask whether it's okay if we delay the passage of this bill because of the celebration of a religious festival of the Jewish people in this province. I would hope it isn't necessary for us to table this motion.

I'm not even a regular member of this committee and my critic isn't here, but I feel perfectly safe supporting this motion, because I know our caucus is fully sympathetic to the request this motion is addressing.

**Mr Offer:** The only thing I would say with respect to the response by the parliamentary assistant is that the motion requests the House leaders to amend the motion. It's not within our power to amend it ourselves. This com-

mittee is not saying what day it is to be changed to; it is a request by this committee to ask the House leaders to change the dates. I've listened to what the parliamentary assistant has said. I must say I'm a little uncomfortable that that's actually necessary in terms of a request, but so be it.

**Ms Murdock:** Mr Chair, I'd ask for a five-minute recess.

**The Chair:** The committee is recessed for five minutes.

The committee recessed at 2042.

2049

**The Chair:** Ms Murdock, did you want to speak to Mr Offer's motion?

**Ms Murdock:** No, other than to say that my move for deferral still stands.

**The Chair:** So you're moving for a what?

**Ms Murdock:** Tabling of this until tomorrow.

**The Chair:** A tabling of it?

**Ms Murdock:** If I may.

**The Chair:** To what time tomorrow?

**Ms Murdock:** End of the day, I guess.

**The Chair:** The end of the day, or the 5 o'clock pre-supper slot or the 12 o'clock pre-noon slot?

**Ms Murdock:** The 5 o'clock would be fine.

**Mr Huget:** Might I add that we recognize the seriousness of Mr Offer's request? The tabling of this till tomorrow will give us an opportunity to deal with it, because it is a very serious request and a legitimate one and we want to give it the respect it deserves.

**The Chair:** Mr Offer, do you want to comment? Are you prepared to consent to a deferral?

**Mr Offer:** Well, I'm surprised, but certainly we could defer this until tomorrow.

**The Chair:** Thank you kindly for your cooperation; 5 o'clock tomorrow.

**Mrs Marland:** Is there a vote on a deferral?

**The Chair:** Not when the mover of the motion consents to it.

**Mrs Marland:** Is this motion tabled or deferred?

**The Chair:** Merely deferred until 5 o'clock tomorrow.

**Mrs Marland:** Because Ms Murdock said "tabled." Tabled is a motion and it needs a motion to bring it back. I want to be very clear about what happens to this motion tomorrow, and I want to be very clear what's happened to it tonight.

**The Chair:** I want to be equally clear. Mr Offer has very generously consented to his motion being deferred until 5 o'clock tomorrow. He being the mover of that motion, in my view that's all that need be done. That motion will be returned to at 5 o'clock tomorrow, regardless of what else is taking place, for a debate and/or a vote.

**Mrs Marland:** Thank you.

**The Chair:** Thank you, people. Take care. We're adjourned till 10 o'clock tomorrow morning.

The committee adjourned at 2051.







**Also taking part / Autres participants et participantes:**  
Fletcher, Derek (Guelph ND)

**Clerk pro tem / Greffier par intérim:** Decker, Todd

**Staff / Personnel:** Fenson, Avrum, research officer, Legislative Research Service



## CONTENTS

Monday 31 August 1992

<b>Labour Relations and Employment Statute Law Amendment Act, 1992, Bill 40</b> . . . . .	R-931
Canadian Manufacturers' Association . . . . .	R-931
Ralph Edwards, chairman, Ontario division	
Ian Howcroft, employee relations policy adviser	
Paul Nykanen, vice-president	
Union of Injured Workers of Ontario . . . . .	R-935
Phil Biggin, executive director	
Canadian Council of Retirees, Local 1 . . . . .	R-939
S. William Punnett, board member and chairman, labour relations committee	
Murray Cottrill, secretary	
All Business Coalition . . . . .	R-943
Paul Nykanen, chair	
Larry Dworkin, government relations officer, Packaging Association of Canada	
Labour Council of Metropolitan Toronto and York Region . . . . .	R-948
Linda Torney, president	
Federation of Temporary Help Services . . . . .	R-952
Don Braden, senior public affairs officer	
Derek Osler, chair, government and labour relations committee	
Steve Jones, national president-elect	
Women for Labour Law Reform . . . . .	R-957
Janet Maher	
Daina Green	
Guelph and District Labour Council . . . . .	R-962
Terry O'Connor, president	
Dave Fairfull, first vice-president	
Larry Leisti, treasurer	
Employment Standards Work Group . . . . .	R-968
Gayle Lesbans, representative	
Parkdale Community Legal Services . . . . .	R-971
Sheila Cuthbertson, staff lawyer	

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \***Chair / Président:** Kormos, Peter (Welland-Thorold ND)
- \***Vice-Chair / Vice-Président:** Huget, Bob (Sarnia ND)
- Conway, Sean G. (Renfrew North/-Nord L)
- Dadamo, George (Windsor-Sandwich ND)
- Jordan, Leo (Lanark-Renfrew PC)
- Klopp, Paul (Huron ND)
- \*McGuinty, Dalton (Ottawa South/-Sud L)
- \*Murdock, Sharon (Sudbury ND)
- \*Offer, Steven (Mississauga North/-Nord L)
- Turnbull, David (York Mills PC)
- Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Wood, Len (Cochrane North/-Nord ND)

### Substitutions / Membres remplaçants:

- \*Coppen, Shirley, (Niagara South/-Sud ND) for Ms Murdock
- \*Cunningham, Dianne (London North/-Nord PC) for Mr Jordan
- \*Hayes, Pat (Essex-Kent ND) for Mr Klopp
- \*Hope, Randy R. (Chatham-Kent ND) for Mr Dadamo
- \*Marland, Margaret (Mississauga South/-Sud PC) for Mr Jordan
- \*Phillips, Gerry (Scarborough-Agincourt L) for Mr Conway
- \*Ward, Brad (Brantford ND) for Mr Waters
- \*Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Turnbull

\*In attendance / présents

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*Continued overleaf*













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